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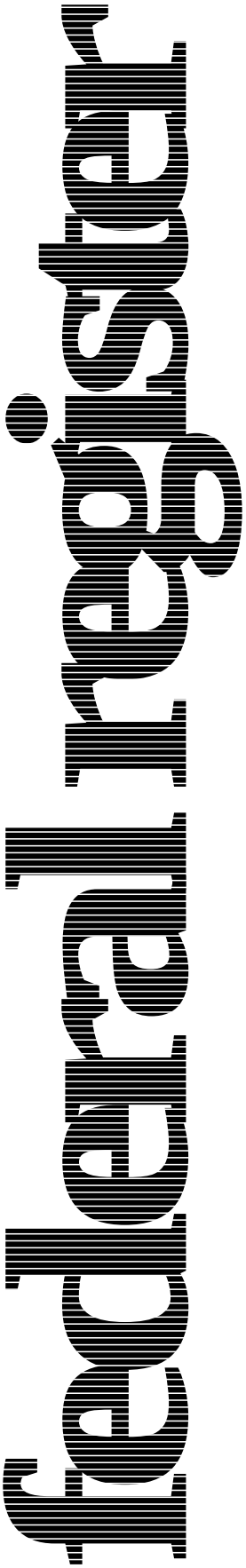

Thursday
July 6, 1995

Briefings on How To Use the Federal Register
For information on briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

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: July 27 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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Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
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Thursday, July 6, 1995

Presidential Documents

Title 3—

The President

Memorandum of June 29, 1995

Certification Regarding Use of the Exchange Stabilization Fund and Federal Reserve in Relation to the Economic Crisis in Mexico

Memorandum for the Secretary of the Treasury

On January 31, 1995, I approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in an amount not to exceed $20 billion, using the Exchange Stabilization Fund (the ''ESF program'').

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and section 406 of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6), I hereby certify that:

(1) There is no projected cost (as defined in the Federal Credit Reform Act of 1990) to the United States from the proposed swap transaction.

(2) All loans, credits, guarantees, and currency swaps to Mexico from the Exchange Stabilization Fund or the Federal Reserve System are adequately backed to ensure that all United States funds are repaid.

(3) The Government of Mexico is making progress in ensuring an independent central bank.

(4) Mexico has in effect a significant economic reform effort.

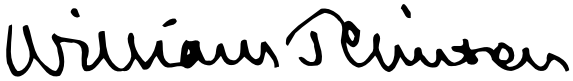
(5) The Executive Branch has provided the documents requested by House Resolution 80 adopted March 1, 1995, and described in paragraphs (1) through (28) of that Resolution. All documents identified as responsive to the Resolution have been provided to the entire House of Representatives. Pursuant to the terms of the Resolution, the Executive Branch has not provided those documents as to which the Executive Branch has informed the House that it would be inconsistent with the public interest to provide the documents to the House. Pursuant to arrangements for safekeeping of classified materials in House facilities, classified documents have been provided to the House by making them available either at designated, secure House facilities or at Executive Branch facilities. Each agency, including the Federal Reserve Board, has advised the House of the procedures employed by that agency to provide the documents requested by House Resolution 80.

I have been informed that the Board of Governors of the Federal Reserve System has provided the documents requested by House Resolution 80 and described in paragraphs (1) through (28) of that Resolution.

I hereby delegate to you the reporting requirement contained in section 406 of Public Law 104–6. You are authorized and requested to report this certification immediately to the Speaker of the House and appropriate congressional committees, as defined in section 407 of Public Law 104–6.

I also hereby delegate to you the reporting requirement contained in section 403 of Public Law 104–6.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 29, 1995.

[FR Doc. 95–16774
Filed 7–3–95; 2:36 pm]
Billing code 4810–25–M

Rules and Regulations

Federal Register
Vol. 60, No. 129
Thursday, July 6, 1995

GENERAL ACCOUNTING OFFICE

4 CFR Parts 28 and 29

Personnel Appeals Board; Procedural Regulations

AGENCY: General Accounting Office Personnel Appeals Board.

ACTION: Final rule.

SUMMARY: The General Accounting Office Personnel Appeals Board is issuing final regulations to govern appeals filed by employees of the Architect of the Capitol alleging discrimination based on race, color, sex, national origin, religion, age or disability. The regulations implement the Board's authority under § 312(e) of the Architect of the Capitol Human Resources Act.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Barbara Lipsky, Attorney, Personnel Appeals Board, 202–512–6137.

SUPPLEMENTARY INFORMATION: On July 22, 1994, the Architect of the Capitol Human Resources Act (ACHRA), Pub. L. 103–283, § 312, 108 Stat. 1443, was signed into law. ACHRA requires the Architect of the Capitol to establish a personnel management system incorporating the fundamental principles that exist in other modern personnel systems. Section 312(e) of ACHRA prohibits employment discrimination against Architect of the Capitol employees based on race, color, sex, national origin, religion, age or disability. It also bans intimidation of or reprisal against employees who exercise their rights under the act. In order to ensure enforcement of these rights, ACHRA permits employees of the Architect of the Capitol to file charges of discrimination or retaliation with the General Accounting Office Personnel Appeals Board (''PAB'' or ''Board'').

On November 16, 1994, the PAB adopted interim regulations to implement its new authority under ACHRA. *See*, 59 FR 59103 (Nov. 16, 1994). Congress, however, significantly changed the enforcement scheme applicable to employees of the Architect of the Capitol when it enacted the Congressional Accountability Act of 1995 (CAA), Pub. L. 104–1, 109 Stat. 3 (Jan. 23, 1995). This statute makes 11 civil rights and worker protection laws applicable to employees of Congress and legislative branch agencies. It also creates a new Office of Compliance within the legislative branch to adjudicate complaints of violations of these laws. The CAA repeals § 312(e) of ACHRA, which is the section that prohibits discrimination against employees of the Architect of the Capitol and permits those employees to file appeals with the PAB. *See*, CAA, § 504(c), 109 Stat. 41. Effective January 23, 1996, Architect of the Capitol employees will be covered by the new non-discrimination provisions of the CAA and may file complaints with the new Office of Compliance.

The PAB will, however, continue for a transitional period to have a role in adjudicating claims from Architect of the Capitol employees. The provisions of the CAA will not apply to Architect of the Capitol employees until January 23, 1996. Until that date, the PAB will continue to have jurisdiction over discrimination claims from Architect of the Capitol employees. Even after that date, employees of the Architect of the Capitol may file charges with the Board if their claims arose before January 23, 1996. In such cases, the provisions of § 312(e) of ACHRA will remain in effect and provide the exclusive procedure for that case until its completion. See, § 506(b)(1) of the CAA, 109 Stat. 43. The PAB may also have a further role to play if the opening of the new Office of Compliance is delayed for any reason. If a claim arises after the effective date of the CAA but before the opening of the new Office of Compliance, the employee is first to exhaust administrative procedures before the Architect of the Capitol. If the Office of Compliance still has not opened after that exhaustion, then the employee has the choice of either filing a charge with the PAB or filing suit in court. If the employee elects to file with the PAB, then he or she must proceed exclusively under the provisions of § 312(e) of ACHRA. The provisions of § 312(e) remain in effect for that case until the case is completed. *See*, § 506(b)(2) of the CAA, 109 Stat. 43.

In view of this continuing role for the PAB, the Board deems it necessary to finalize its interim regulations, even though it recognizes that its relationship with the Office of the Architect of the Capitol and its employees will be a relatively brief one.

Brief Summary of the Interim Regulations

The interim regulations published by the Board on November 16, 1994, contained a new part, 4 CFR part 29, establishing the procedures that the Board will follow in receiving and adjudicating cases brought by Architect of the Capitol employees. *See*, 59 FR 59103 (Nov. 16, 1994). The interim regulations also included some conforming amendments to the procedures applicable to charges filed by employees of the General Accounting Office (GAO). *See*, changes to 4 CFR part 28, 59 FR 59105. The most significant change for GAO employees is that the time in which they may file a charge with the Board has been expanded. GAO employees now have 30 days following the relevant action by GAO in which to file a charge with the Board's General Counsel. *See*, amendments to 4 CFR 28.11 and 28.98, 59 FR 59106. Finally, the Board's regulations concerning judicial review of Board decisions were amended in light of *Ramey* v. *Bowsher*, 9 F.3d 133 (D.C. Cir. 1993). In that case, the court held that an employee's only recourse following a final decision of the Board on a complaint of discrimination is to seek appellate review before the United States Court of Appeals for the Federal Circuit. The Board deleted 4 CFR 28.100, which contained contrary provisions, from its regulations. *See*, 59 FR 59106. The preamble to the interim regulations contained a detailed summary of the significant features of the regulations and an explanation of the choices made by the Board in drafting the regulations. This material will not be repeated here.

History of Rulemaking Proceedings

The regulations were made effective on an interim basis because of the need to have some procedures in place to govern any charges of discrimination received from Architect of the Capitol employees. The PAB invited comments from the public and stated that it would

carefully consider such comments before the regulations were adopted in final form. *See,* 59 FR 59103. The original **Federal Register** notice announced that comments would be received through February 24, 1995. *Id.* This deadline was later extended to March 15, 1995. *See,* 60 FR 9773 (Feb. 22, 1995). In addition to publishing the interim regulations in the **Federal Register**, the PAB also prepared a four-page ''plain English'' summary of the regulations and distributed this summary to every employee of the Architect of the Capitol. The summary contained information on how to submit comments to the Board. The Board stated that it would receive comments either in writing or orally, on a special voice-mail line. GAO employees were provided notice of the rulemaking proceedings through two notices published in the ''GAO Management News.'' *See,* GAO Management News, Vol. 22, No. 9 (Week of Nov. 28–Dec. 2, 1994); Vol. 22, No. 20 (Week of Feb. 20–24, 1995). Copies of the **Federal Register** notice concerning the regulatory changes were also sent to representatives of the GAO employee councils.

The Board received two comments concerning the interim regulations. One comment, apparently from an Architect of the Capitol employee, praised the regulations. The employee stated that: ''I'm particularly pleased * * * that a person can remain anonymous when reporting an alleged illegal personnel practice * * * .'' The employee also stressed the importance of follow-up investigations by the Board's General Counsel to ensure that required changes are taking place. The other comment received by the Board was from Mr. George M. White, the Architect of the Capitol. Mr. White objected to certain provisions of the interim regulations, arguing that they went beyond the statutory authority of the Board.

After carefully considering the comments received, the Board has adopted several modifications to the interim regulations. The Board has, however, decided to retain three elements of the regulations that were challenged by the Architect of the Capitol. The Board will discuss below the primary concerns raised by the Architect and the Board's views on those matters. Each change to the interim regulations will also be explained.

Response to Comments Received from the Architect of the Capitol

The Architect of the Capitol argues that the Board lacks statutory authority for three provisions of the interim regulations: (1) The provision requiring that all charges be filed with and investigated by the PAB General Counsel, prior to being considered by the Board; (2) the provision defining ''exhaustion'' of administrative proceedings before the Architect and stating that an employee may file a charge with the Board if the Architect fails to issue a final decision on his or her EEO complaint within 120 days; and (3) the provision permitting Architect employees to file charges with the Board seeking class-wide relief, even if such relief had not been sought from the Architect. Each of these provisions will be discussed below.

1. Role of the PAB General Counsel

The Architect expresses concern about the role assigned to the PAB General Counsel by the interim regulations. Under the interim regulations, the PAB General Counsel has the same role with respect to charges filed by employees of the Architect of the Capitol as he does with respect to those of GAO employees. A charge of discrimination is initially filed with the General Counsel. *See,* 4 CFR 29.8(a), 59 FR 59108. The General Counsel investigates the charge and determines whether there is a reasonable basis to believe the charge is true. *Id.* at § 29.9. When the General Counsel's investigation is complete, he sends the employee a Right to Appeal Letter, which includes a confidential letter to the employee explaining the General Counsel's conclusions on the merits of the case. *Id.* at § 29.9(c). Where he concludes that the charge has merit, the General Counsel offers to represent the employee before the Board. *Id.* at § 29.9(d). Regardless of the findings of the General Counsel, the employee is free to file an appeal with the PAB within 30 days of service of the Right to Appeal Letter. *Id.* at § 29.10(a) and (b).

The Architect asserts that there is no statutory basis for the duties assigned to the PAB General Counsel in the interim regulations. He argues that ACHRA only provides for the filing of appeals with the PAB and makes no mention of any role for the General Counsel. The Board has carefully considered this argument and concludes that there is a firm statutory basis for the duties assigned to the General Counsel and that the enforcement scheme adopted by the Board is supported by sound policy considerations.

ACHRA states that any employee of the Architect of the Capitol alleging employment discrimination based on race, color, sex, national origin, religion, age or disability ''may file a charge with the General Accounting Office Personnel Appeals Board *in accordance with the General Accounting Office Personnel Act of 1980 (31 U.S.C. 751–55).*'' Section 312(e)(3)(A) of ACHRA, 108 Stat. 1445 (emphasis added). Thus, ACHRA expressly states that charges by employees of the Architect of the Capitol will be governed by the terms of the General Accounting Office Personnel Act (GAOPA) contained in 31 U.S.C. 751–755.

Sections 751 through 755 of Title 31, U.S.C., establish both the PAB and its General Counsel, and assign duties to each. The PAB is to hear and adjudicate claims relating to certain enumerated personnel matters. 31 U.S.C. 753. The Board also has the authority to issue procedural regulations. *Id.* at 753(d). The duties of the General Counsel are to:

> (A) Investigate an allegation about a prohibited personnel practice under 732(b)(3) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or employee of the General Accounting Office;
>
> (B) Investigate an allegation about a prohibited political activity under 732(b)(3) of this title;
>
> (C) Investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and
>
> (D) Help the Board carry out its duties and powers.

31 U.S.C. 752(b)(3). Thus, the GAOPA gives the General Counsel broad authority to investigate any matter within the Board's jurisdiction, if requested to do so by the Board. ACHRA amended the jurisdictional grant to the Board, contained in 31 U.S.C. 753, to include actions involving discrimination prohibited by ACHRA. *See,* ACHRA, § 312(e)(4)(B), 108 Stat. 1446. As a result, discrimination claims by Architect of the Capitol employees are ''matters under the jurisdiction of the Board'' and the Board may ask the General Counsel to investigate such claims. This is precisely what the Board has done in its interim regulations, which require the General Counsel to investigate every discrimination claim filed by an employee of the Architect of the Capitol.

An almost identical question concerning the Board's authority was raised in *General Accounting Office v. General Accounting Office Personnel Appeals Board,* 698 F.2d 516 (D.C. Cir. 1983). In that case, the General Accounting Office challenged the authority of the PAB to authorize the PAB General Counsel to prosecute appeals concerning adverse actions on behalf of GAO employees. The District of Columbia Circuit held that ''investigate'' as used in 31 U.S.C. 752

included both the investigation of claims and the prosecution of those claims before the Board. The court further held that the Board's broad authority to issue procedural regulations included the power to issue a regulation requiring the General Counsel to investigate and to prosecute any category of case within the Board's jurisdiction. The court reasoned:

> [T]he open-ended language of 4(g)(4) and 4(m) [of the original text of the GAOPA] supports the conclusion that, within the bounds of law and reason, the GAOPA authorizes whatever sort of advocacy role for the General Counsel the Board determines to be appropriate. Section 4(g)(4) provides that the General Counsel shall ''help the Board carry out its duties and powers,'' and section 4(m) grants the Board power to promulgate regulations ''providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5.* * *'' These provisions give the Board broad discretion to design appropriate procedures for appeals cases and to include in that design whatever role for the General Counsel it deems helpful in discharging its duties and powers. Consistent with the discretion thereby granted, the PAB has concluded that the role created for the General Counsel under 4 C.F.R. § 28.17(d) ''helps'' the Board carry out its duties and powers by facilitating an efficient adjudicative procedure for *all* petitions filed with the Board, including adverse action petitions. We think that conclusion is both consistent with the statute and entirely rational and, therefore, we decline to disturb it.

General Accounting Office v. General Accounting Office Personnel Appeals Board, 698 F.2d at 529–30 (emphasis in original; footnotes deleted). Because discrimination charges by Architect of the Capitol employees are now within the Board's jurisdiction, and ACHRA states that such charges are to be filed in accordance with the GAOPA, the reasoning of the District of Columbia Circuit indicates that the Board may assign a similar role to the PAB General Counsel with respect to this new class of cases.

The Board believes that the above analysis answers the Architect's objection that there is no statutory basis for the duties assigned to the General Counsel. Moreover, the Board believes that there are sound policy reasons for the enforcement role assigned to the General Counsel by the regulations. By requiring that all charges be investigated by the General Counsel, the Board ensures that all cases come to it with well-defined issues and a fully developed factual record. The Board appreciates that the Architect will have investigated these cases as well. However, that investigation (by the agency charged with the discrimination) may not be as impartial or as thorough as one undertaken by a third-party such as the General Counsel. The General Counsel's investigation also serves a screening function, because an employee may choose not to pursue a case if an impartial investigator such as the General Counsel concludes that his or her claim lacks merit. Finally, the General Counsel's representation of employees adds to the integrity of the adjudicatory process by ensuring that employees with credible claims have a fair chance to have their cases presented to the Board and do not have to proceed pro se against an agency represented by skilled legal counsel.

For these reasons, the Board has decided to retain the basic role of the PAB General Counsel as proposed in the interim regulations. The Board has, however, decided to make one change in the duties of the General Counsel. The Architect of the Capitol raised concerns about a provision of the interim regulations that permitted the General Counsel to initiate his own investigations, even in the absence of the filing of a charge by an Architect employee. *See,* 4 CFR 29.12, 59 FR 59109. This provision mirrored a provision applicable to GAO employees in the Board's current regulations and was based on the statutory role of the General Counsel under the GAOPA. However, after the adoption of the interim regulations, Congress enacted the CAA. This new law transfers responsibility for adjudicating claims of discrimination by employees of the Architect of the Capitol to the new Office of Compliance, beginning either in January 1996 or at a later date if the opening of the Office is delayed. *See,* CAA, § 506(b), 109 Stat. 43. The PAB will thus only be hearing claims from the Architect of the Capitol for a transitional period. Because of the Board's limited role following the CAA, the Board has decided that it would not be feasible or appropriate for its General Counsel to conduct any self-initiated investigations and it has decided to drop this provision from its regulations. The Board is mindful that the one Architect employee who submitted a comment praised this provision and stated that it is important for employees to be able to provide information to the General Counsel anonymously, without filing a charge of discrimination. Nonetheless, the Board concludes that, in light of its more limited role following the passage of the CAA, the provision for self-initiated investigations is no longer appropriate. The Board is therefore deleting 4 CFR 29.12 (entitled ''Proceedings brought by the General Counsel seeking corrective action, disciplinary action or a stay''), which appeared in the interim regulations. References to the General Counsel's authority to bring self-initiated cases have also been deleted from 4 CFR 29.3 (''Jurisdiction of the Board'').

2. Exhaustion of Administrative Remedies Before the Architect of the Capitol

The interim regulations permit an employee to file a charge with the PAB at any time after the passage of 120 days, if the Architect fails to issue a final decision on the employee's internal complaint of discrimination by that date. *See,* 4 CFR 29.6(a), 59 FR 59107. The Architect of the Capitol objected to this provision, taking the position that a charge cannot be filed with the PAB until a final decision is issued by the Architect, regardless of how long it takes to issue that decision.

For the reasons set forth below, the Board rejects the Architect's argument. However, after reviewing the material submitted by the Architect, the Board has decided to lengthen to 150 days the time period that an employee must wait before filing a charge with the Board. The Board recognizes that the Architect has adopted a detailed procedure for considering claims of discrimination. Because those procedures may in some instances take as long as 140 days to complete, the Board concludes that an expansion of the time period in its regulations is warranted. *See* change to 4 CFR 29.6(a), set forth below.

ACHRA requires that employees of the Architect of the Capitol exhaust the administrative remedies for discrimination within their own agency before filing a charge with the PAB. The act states:

> Such a charge may be filed [with the PAB] only after the employee has filed a complaint with the Architect of the Capitol in accordance with requirements prescribed by the Architect of the Capitol and has exhausted all remedies pursuant to such requirements.

ACHRA, § 312(e)(3)(A), 108 Stat. 1445–46. Although ACHRA states that employees must exhaust their internal administrative remedies before filing a charge with the Board, the statute does not define when such remedies will be considered ''exhausted.'' The Board's regulations merely supply a reasonable definition of ''exhaustion.'' The regulations, as amended below, state that administrative remedies will be considered exhausted when either of the following occurs:

> (1) The employee receives a final decision by the Architect of the Capitol on his or her complaint of discrimination or retaliation; or

(2) 150 days have passed after the filing of an internal complaint of discrimination or retaliation and the Architect of the Capitol has not issued a final decision on the complaint.

See, 4 CFR 29.6(a), as amended below.

Such a definition of ''exhaustion'' is extremely important. If an employee had to await a final decision by the employing agency in all cases, the agency effectively could deny employees access to the Board by delaying the issuance of a decision indefinitely. Moreover, for the right to appeal to the Board to be meaningful, an employee needs to be able to file his or her charge when witness memories are still fresh and effective relief can still be fashioned.

Although the statutory language and legislative history for ACHRA are remarkably brief, two important policies are evident on the face of the statute. On the one hand, Congress clearly intended that Architect of the Capitol employees have a meaningful right to have their complaints heard by an impartial adjudicatory body outside the control of the Architect. On the other hand, Congress also wished to give the Architect the first chance to investigate and rectify any improprieties in his own personnel practices. The Board's definition of exhaustion gives effect to both of these statutory policies. The regulations give the Architect an exclusive period of time in which to investigate and act on employee complaints. But they also ensure that employees will be able to obtain an independent review by the PAB if their employer withholds action on their complaints for an unreasonable period of time.

ACHRA needs to be read against the background of the discrimination complaint procedures that are in effect throughout the federal government. In every other discrimination complaint process within the federal government, employees are permitted to take an appeal to an external adjudicatory body if their own agency fails to act on their complaint within some specified period of time. *See,* 4 CFR 28.98(b)(2) (GAO employees may file with the PAB if GAO fails to issue decision within 120 days); 5 CFR 1201.154(b)(2) (in ''mixed cases'', executive branch employees may file a discrimination appeal with the MSPB if their agency fails to decide their internal EEO complaints within 120 days); 29 CFR 1614.108(e) and (f) (executive branch employees may request hearing before EEOC administrative judge if agency does not complete its investigation within 180 days). In adopting ACHRA, Congress was essentially extending the protection of nondiscrimination laws to employees of the Architect of the Capitol and stating that those protections should be enforced in accordance with the procedures of the GAOPA. It is thus reasonable to assume that Congress intended the Board to interpret ''exhaustion of administrative remedies'' in a manner consistent with other federal civil rights laws and with the Board's longstanding regulations.

For these reasons, the Board concludes that it has a sound legal basis for adopting its definition of exhaustion of administrative remedies.

The interim regulations also included a special rule, permitting the Architect of the Capitol an additional 60 days to investigate charges filed with the Board's General Counsel prior to March 1, 1995. As noted in the preamble to the interim regulations, this provision was intended as an interim measure only. It has already expired and now is deleted from the final regulations. *See,* deletion of 4 CFR 29.6(d), set forth below.

3. Class Actions

The interim regulations permit an employee of the Architect of the Capitol to file a charge with the PAB as the representative of a class of employees. *See,* 4 CFR 29.8(a) and 29.10(f), 59 FR 59108. The regulations further require that such an employee first file an internal complaint of discrimination with the Architect of the Capitol and exhaust administrative remedies on that complaint. 4 CFR 29.6(b). The regulations do not require, however, that such a complaint be filed with the Architect of the Capitol as a class action, or treated by the Architect of the Capitol as a class action, in order to meet the requirements of exhaustion of administrative remedies.

The Architect of the Capitol opposes these provisions concerning class actions. He argues that the PAB has no authority to entertain any claim or issue that was not raised before his office. However, his letter also makes clear that the procedures adopted by his office do not permit the filing of class actions. Thus, his argument in effect is that employees of the Architect of the Capitol have no avenue for seeking relief on a class-wide basis.

The PAB disagrees with the Architect's interpretation of ACHRA and has decided to retain these provisions of its regulations. ACHRA prohibits the Architect of the Capitol from engaging in employment discrimination that would be unlawful under Title VII of the Civil Rights Act and other nondiscrimination statutes. *See,* ACHRA, § 312(e)(2), 108 Stat. 1445. It has long been recognized that the kind of discrimination prohibited by Title VII is often class-wide in nature and that class actions are critical to effective enforcement of the statute. *See,* e.g., discussion in *Hackley* v. *Roudebush,* 520 F.2d 108, 152, n.177 (D.C. Cir. 1975). In interpreting Title VII's prohibition of discrimination by the federal government, the United States District Court for the District of Columbia ruled that executive branch agencies must accept class complaints of discrimination filed by their employees and must afford class-wide relief in appropriate circumstances. *Barrett* v. *U.S. Civil Service Commission,* 69 F.R.D. 544, 549–552 (D.D.C. 1975). Thus, the PAB concludes that it has an obligation to permit the filing of class actions in proceedings before it.

In determining what exhaustion of administrative remedies is necessary before an Architect employee may file a class action with the Board, the PAB followed well-established Title VII case law. Under Title VII, a class action may be pursued in court so long as the named representative of the class filed an individual administrative complaint of discrimination. It is not necessary that each class member have filed an administrative complaint or that remedies were sought at the administrative level on behalf of the class members. *Chisholm* v. *U.S. Postal Service,* 665 F.2d 482, 490 (4th Cir. 1981); *Bowe* v. *Colgate-Palmolive Co.,* 416 F.2d 711, 720 (7th Cir. 1969); *see also, Albemarle Paper Co.* v. *Moody,* 422 U.S. 405, 414–15, n.8 (1975). In light of the Architect's own representations that he will not permit the filing of class complaints in his internal EEO complaint process, it is particularly important that Architect employees be permitted to pursue class remedies before the Board after having filed an individual complaint with the Architect.

Applicability of Part 29

In addition to the changes discussed above that respond to the public comments, the Board has also revised the final section of part 29, § 29.13, entitled ''Applicability of this part.'' Following the adoption of the interim regulations, Congress enacted the CAA. As discussed above, that statute terminates the Board's jurisdiction over claims by employees of the Architect of the Capitol, after a transitional period. The CAA generally limits the Board's jurisdiction to cases arising before January 23, 1996, except in certain cases where the opening of the new Office of Compliance is delayed. The revised text of § 29.13 makes reference to these new

limitations on the Board's jurisdiction contained in the CAA.

Interim Regulations Concerning GAO Employees

As noted above, the interim regulations contained a few changes to 4 CFR part 28 concerning charges brought by employees of GAO. Because no comments were received from either GAO or its employees on these provisions, the Board now adopts them in final form, without change.

List of Subjects

4 CFR Part 28

Administrative practice and procedure, Equal employment opportunity, Government employees, Labor-management relations.

4 CFR Part 29

Administrative practice and procedure, Equal employment opportunity, Government employees.

Accordingly, the interim rule amending Title 4, Chapter I, Subchapter B, Code of Federal Regulations, which was published at 59 FR 59103 on November 16, 1994, is adopted as a final rule with the following changes:

PART 29—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE ARCHITECT OF THE CAPITOL

1. The authority citation for Part 29 continues to read as follows:

Authority: 31 U.S.C. 753.

2. Section 29.3 is amended by removing paragraph (c).

3. Section 29.6 is amended by revising paragraph (a)(2) and removing paragraph (d) to read as follows:

§ 29.6 Requirement for exhaustion of internal administrative remedies provided by the Architect of the Capitol.

(a) * * *

(2) 150 days have passed after the filing of an internal complaint of discrimination or retaliation and the Architect of the Capitol has not issued a final decision on the complaint.

* * * * *

3. Section 29.8 is amended by revising paragraph (b)(2) as follows:

§ 29.8 Filing a charge with the General Counsel.

* * * * *

(b) * * *

(2) At any time after the passage of 150 days following the filing of an internal complaint of discrimination or retaliation, if the Architect of the Capitol has not yet issued a final decision on the internal complaint.

* * * * *

§ 29.12 [Removed and reserved]

4. Section 29.12 is removed and reserved.

5. Section 29.13 is amended by revising the section heading, removing paragraph (a), redesignating paragraph (b) as paragraph (a), and adding a new paragraph (b) to read as follows:

§ 29.13 Applicability of this part.

* * * * *

(b) The regulations in this part apply to all charges filed with the Board prior to January 23, 1996, the effective date of § 201 of the Congressional Accountability Act of 1995 (CAA), Pub. L. 104–1, 109 Stat. 3 (January 23, 1995). They also apply to any charge filed after that date pursuant to the terms of § 506(b) of the CAA.

Nancy A. McBride,

Chair, Personnel Appeals Board, U.S. General Accounting Office.

[FR Doc. 95–16475 Filed 7–5–95; 8:45 am]

BILLING CODE 1610–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 316

RIN 3206–AF56

Temporary Schedule C Positions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations which permit agencies to establish temporary Schedule C positions in order to assist a department or agency head during the period immediately following a change in presidential administration, when a new department or agency head has entered on duty, or when a new department or agency is created. To simplify the Schedule C appointment process, OPM is combining two separate, temporary Schedule C authorities into a single transitional appointing authority, and is setting a new overall limit on the number of new positions agencies may establish.

EFFECTIVE DATE: August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole, (202) 606–0950, or fax (202) 606–0390.

SUPPLEMENTARY INFORMATION: On December 7, 1994 (59 FR 63064), OPM published proposed regulations to merge the Identical Temporary Schedule C (ITC) and New Temporary Schedule C (NTC) authorities into a single temporary transitional authority. Agencies could use this authority without prior OPM approval for up to a year after a Presidential transition or a new agency head came on board, and individual appointments could be made for up to 120 days, with one extension for an additional 120 days.

In addition, OPM proposed to revise the overall limit on the number of positions an agency could establish to either 50 percent of the highest number of permanent Schedule C positions filled by that agency at any time over the previous 5 years, or three positions, whichever is higher.

The proposed regulations also codified a requirement in law on the detailing of Schedule C incumbents to the White House, and contained a conforming amendment to part 316, § 316.403, pertaining to provisional appointments, to change the terminology of ITC and NTC appointments to temporary transitional.

We received comments from one Federal agency that was in favor of establishing a single transitional authority, but felt the agency quota of new positions should be increased or eliminated to reduce potential delays in filling critical positions. The agency suggested that this decision should be delegated to the head of each agency. We did not adopt this suggestion. The quota is designed to permit agencies to bring a reasonable number of Schedule C appointees on board during transition periods when OPM may not be able to process agency requests in a timely manner. Not all Schedule C positions are critical. Therefore, the quota of 50 percent of the highest number of permanent Schedule C positions filled at any time over the previous 5 years should meet the needs of most agencies. However, we recognize there may be extenuating circumstances in individual cases, and have included a provision under which OPM may approve increases in the quota to meet critical needs or in unusual circumstances.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

5 CFR Part 316

Government employees.

Office of Personnel Management,

James B. King,

Director.

Accordingly, OPM is amending 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; section 213.101 also issued under 5 U.S.C. 2103; section 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185.

2. Section 213.3301 is revised and § 213.3301b is removed to read as follows:

§ 213.3301 Positions of a confidential or policy-determining nature.

(a) Upon specific authorization by OPM, agencies may make appointments under this section to positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. Positions filled under this authority are excepted from the competitive service and constitute Schedule C. Each position will be assigned a number from § 213.3302 to § 213.3999, or other appropriate number, to be used by the agency in recording appointments made under that authorization.

(b) When requesting Schedule C exception, agencies must submit to OPM a statement signed by the agency head certifying that the position was not created solely or primarily for the purpose of detailing the incumbent to the White House.

(c) The exception from the competitive service for each position listed in Schedule C by OPM is revoked immediately upon the position becoming vacant. An agency shall notify OPM within 3 working days after a Schedule C position has been vacated.

3. Section 213.3302 is revised to read as follows:

§ 213.3302 Temporary transitional Schedule C positions.

(a) An agency may establish temporary transitional Schedule C positions necessary to assist a department or agency head during the 1-year period immediately following a change in presidential administration, when a new department or agency head has entered on duty, or when a new department or agency is created. These positions may be established only to meet legitimate needs of the agency in carrying out its mission during the period of transition associated with such changeovers. They must be of a confidential or policy-determining character and are subject to instructions issued by OPM.

(b) The number of temporary transitional Schedule C positions established by an agency cannot exceed either 50 percent of the highest number of permanent Schedule C positions filled by that agency at any time over the previous 5 years, or three positions, whichever is higher. In the event a new department or agency is created, the number of temporary transitional positions should reasonable in light of the size and program responsibility of that department or agency. OPM may approve an increase in an agency's quota to meet a critical need or in unusual circumstances.

(c) Individual appointments under this authority may be made for 120 days, with one extension of an additional 120 days. They may be deemed provisional appointments for purposes of the regulations set out in parts 351, 831, 842, 870, and 890 of this chapter if they meet the criteria set out in §§ 316.401 and 316.403 of this chapter.

(d) An agency shall notify OPM within 5 working days after a temporary transitional Schedule C position has been encumbered and within 3 working days when it has been vacated. The agency must also submit to OPM a statement signed by the agency head certifying that the position was not created solely or primarily for the purpose of detailing the incumbent to the White House.

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, and E.O. 10577 (3 CFR 1954–1958 Comp., p.218); section 316.302 also issued under 5 U.S.C. 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585; section 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (93 Stat. 371), E.O. 12137, 38 U.S.C. 2014 and E.O. 12362, as revised by E.O. 12585 and E.O. 12721.

5. In section 316.403, paragraph (b)(3) is revised to read as follows:

§ 316.403 Designation of provisional appointments.

* * * * *

(b) * * *

(3) Temporary transitional Schedule C appointments made under § 213.3302 of this chapter, when the appointees are to be converted to nontemporary Schedule C appointments upon OPM approval and completion of necessary clearances.

* * * * *

[FR Doc. 95–16545 Filed 7–5–95; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–0872]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Regulation Y to eliminate the need for a bank holding company to file a request with the Board for a determination under section 2(g)(3) of the Bank Holding Company Act that it no longer controls shares or assets that it has sold to a third party with financing if the purchaser is not an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder, and there are no officers, directors, trustees or beneficiaries of the acquiror in common with or subject to control by the divesting company. The Board believes that the elimination of the requirement for a determination of control for these types of divestitures will reduce the regulatory burden on bank holding companies without undermining the purposes of the Bank Holding Company Act. This proposal has been identified in connection with the Board's continuing effort to eliminate obsolete or unnecessary regulations or applications.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Pamela G. Nardolilli, Senior Attorney (202/452–3289), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under section 2(g)(3) of the Bank Holding Company Act (12 U.S.C. 1841(g)), shares

transferred by a bank holding company to any transferee where the transferee is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with the transferor, are deemed to be controlled by the transferor unless the Board, after an opportunity for a hearing, determines that the transferor is not capable of controlling the transferee. On March 28, 1995, the Board proposed to amend § 225.32 of the Board's Regulation Y (12 CFR 225.32) to exempt from the presumption of control those divestitures where a bank holding company is financing the sale of assets or shares that it acquired so long as (i) the property is not sold to an affiliate or principal shareholder of the divesting holding company, or a company controlled by such a principal shareholder; and (ii) there are no officers, directors, trustees, or beneficiaries of the acquiror in common with or subject to control by the divesting company (60 FR 15881) (March 28, 1995).

A review of the 2(g)(3) determinations over the past ten years indicates that almost all control determinations under that section have arisen from bank holding companies selling property they acquired in satisfaction of a debt previously contracted (dpc property) where the bank holding company was trying to recoup its losses on a loan from the sale of the collateral. In these cases, the record indicates that the divestitures and financing arrangements have been conducted on an arm's-length basis, and there is no evidence of divesting companies exercising control of the assets after the sale. In other cases where a bank holding company sold an asset or subsidiary that it had acquired in the normal course of business and financed the sale of the asset or subsidiary, the assets were sold because, in most cases, the bank holding company was no longer interested in engaging in that business.

The elimination of the requirement to obtain a control determination will reduce the regulatory burden on bank holding companies without eliminating the Board's ability to supervise any attempt to control the divested asset in the future. Although the Board would no longer require a bank holding company to obtain a control determination, the Board can take appropriate supervisory action if control of a divested asset is found to persist through the examination process or by other means. In addition, the Board would continue to require a divesting company to obtain a 2(g)(3) determination if: (1) the asset were transferred to an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder; or (2) an interlock existed between the divesting company and the acquiring person. In these cases, the Board believes that there is a greater potential for continued control by the bank holding company that should be reviewed. The General Counsel will continue to review these divestitures on a case by case basis to determine if a control determination is appropriate. In addition, if a bank holding company needs a formal control determination for tax or other reasons, the Board will continue to process a request for a control determination even when the sale meets the regulation.

Public Comment

The Board received sixteen comments on its proposed amendment to Regulation Y. The Board received eight comments from Reserve Banks, five comments from commercial banking organizations, two comments from trade associations and one comment from a law firm. All commenters supported the Board's effort to reduce regulatory burden. Two commenters suggested that the Board expand the scope of the regulation to include divestitures to companies with director interlocks. The Board receives few requests for divestitures involving interlocks and the Board does not believe that an exemption is needed at this time for these divestitures.

The comments also raise several administrative questions regarding the implementation of the regulation. In response to public comment, the Board has modified the proposed language to clarify the applicability of the proposed regulation. In another comment, one Reserve Bank questioned the status of pending 2(g)(3) requests and transactions. The Board believes that any pending 2(g)(3) request or transaction that meets the regulation's requirements should be covered by the new regulation and no further action is needed. Because a 2(g)(3) determination is a statutory requirement and some bank holding companies may need proof of the divestiture for tax or other reasons, one Reserve Bank recommended that the regulation state that if a bank holding company wants a 2(g)(3) determination, that the bank holding company can request a determination even if the regulation no longer requires it. As noted above, the preamble indicates that the Board will continue to provide 2(g)(3) determinations if a bank holding company requests such a determination.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that the final rule will not have a significant adverse economic impact on a substantial number of small entities and that any impact on those entities should be positive. The amendments would reduce regulatory burdens imposed by Regulation Y, and the amendment would have no particular adverse effect on other entities.

Pursuant to 5 U.S.C. § 553(d), the amendment to Regulation Y will become effective immediately. The change grants an exemption to bank holding companies, and therefore the Board waives the 30 days general requirement for publication of a substantive rule. In addition, any transaction that is subject to section 2(g)(3) but meets the regulation's requirements is now exempt and no further action is required.

Paperwork Reduction Act Analysis

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is contained in the final rule.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends 12 CFR part 225 as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In § 225.32, paragraph (a)(2) is redesignated as paragraph (a)(3) and a new paragraph (a)(2) is added to read as follows:

§ 225.32 Divestiture proceedings.

(a) * * *

(2) Except in the case of a proceeding initiated under paragraph (f) of this section or § 225.31 of this subpart, the Board will regard the presumption of control in paragraph (a)(1)(i) of this section and section 2(g)(3) of the Bank Holding Company Act as inapplicable in the case of the sale or divestiture of assets or voting securities by a divesting company if:

(i) The acquiring person is not an affiliate or a principal shareholder of the divesting company, or a company controlled by such a principal shareholder; and

(ii) The acquiring person does not have any officer, director, trustee, or beneficiary in common with or subject to control by the divesting company.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 29, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–16539 Filed 7–5–95; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 to 199

Title 19 Parts 141 to 199; Republication

CFR Correction

Title 19 parts 141 to 199, revised as of April 1, 1995, is being republished in its entirety. The earlier issuance inadvertently omitted text from the Appendix to part 181. The omitted text should begin on page 411 after the second entry in the first table.

Billing Code 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Xylazine Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Lloyd, Inc. The supplemental NADA provides for intravenous, intramuscular, or subcutaneous use of xylazine injection in cats to produce sedation accompanied by a shorter period of analgesia.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center For Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Lloyd, Inc., 604 W. Thomas Ave., Shenandoah, IA 51601, is sponsor of NADA 139–236, which provides for intravenous, intramuscular, or subcutaneous use of AnaSed® Xylazine Injection containing xylazine hydrochloride equivalent to 100 milligrams (mg) xylazine per milliliter (mL) in horses and 20 mg/mL in dogs to produce sedation accompanied by a shorter period of analgesia. The supplement provides for use of 20 mg/mL xylazine in cats for the same indications. The drug is limited to use by or on the order of a licensed veterinarian.

Supplemental NADA 139–236 is approved as a generic copy of Bayer's NADA 47–955 for Rompun® (xylazine 20 mg/mL) injectable. The supplemental NADA is approved as of May 16, 1995, and the regulations are amended by revising 21 CFR 522.2662(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Also, the firm has changed the name of the NADA sponsor from Vet-A-Mix, Inc., to Lloyd, Inc. Because Lloyd, Inc., has not previously been listed in the animal drug regulations as the sponsor of an approved application, the agency is amending 21 CFR 510.600(c)(1) and (c)(2) to add entries for Lloyd, Inc.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

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

21 CFR Part 522

Animal drugs.

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 parts 510 and 522 are 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).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for Lloyd, Inc., and in the table in paragraph (c)(2) by numerically adding a new entry for ''061690'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Lloyd, Inc., 604 W. Thomas Ave., Shenandoah, IA 51601.	061690
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
061690	Lloyd, Inc.,604 W. Thomas Ave., Shenandoah, IA 51601

PART 522—IMPLANTATION AND INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.2662 [Amended]

4. Section 522.2662 *Xylazine hydrochloride injection* is amended in paragraph (b) by revising the third sentence to read: ''See 061690 in § 510.600(c) of this chapter for use in horses, dogs, and cats.''.

Dated: June 23, 1995.

Andrew J. Beaulieau,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–16625 Filed 7–5–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Xylazine Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Lloyd, Inc. The supplemental NADA provides for intramuscular use in *Cervidae* spp. of xylazine injection to produce sedation accompanied by a shorter period of analgesia.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center For Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Lloyd Inc., 604 West Thomas Ave., Shenandoah, IA 51601, has filed supplemental NADA 139–236, which provides for use of AnaSed® Xylazine Injection containing xylazine hydrochloride equivalent to 100 milligrams (mg) xylazine per milliliter (mL) in horses, and 20 mg/mL in dogs and cats. The supplemental NADA provides for intramuscular use of 100 mg/mL xylazine injection in *Cervidae* spp. (fallow deer, mule deer, sika deer, white-tailed deer, and elk) to produce sedation accompanied by a shorter period of analgesia. The drug is limited to use by or on the order of a licensed veterinarian.

Supplemental NADA 139–236 is approved as a generic copy of Bayer's NADA 47–956 for Rompun® (xylazine 100 mg/mL) injectable. The supplemental NADA is approved as of May 16, 1995, and the regulations are amended in 21 CFR 522.2662(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

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 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.2662 [Amended]

2. Section 522.2662 *Xylazine hydrochloride injection* is amended in paragraph (b) by revising the statement ''See 061690 in § 510.600(c) of this chapter for use in horses, dogs, and cats'' by adding after ''horses'' the words ''wild deer, elk,''.

Dated: June 28, 1995.

Andrew J. Beaulieau,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–16626 Filed 7–5–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 791

[Docket Numbers R–95–1637, R–95–1728; FR–3658–F–03]

RIN 2501–AB71

Allocation of Budget Authority for Housing Assistance

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final two interim rules previously published by HUD which amended HUD regulations governing allocation of budget authority for housing assistance. The previous interim rules added two subcategories of budget authority for uses that the Secretary determines are incapable of geographic allocation by formula, and increased the amount of funding available under the Headquarters Reserve. In addition, this final rule also adds two technical amendments to HUD's regulations governing the allocation of budget authority for housing assistance.

EFFECTIVE DATE: This final rule is effective on August 7, 1995.

FOR FURTHER INFORMATION CONTACT: For the Public and Indian Housing program, and section 8 voucher, certificate, and moderate rehabilitation programs, Nanci Gelb, Director, Budget Division, Room 4230, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone (202) 708–0920. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–0850. For other assisted housing programs, Joel Balsham, Program Advisor, Office of the Deputy Assistant Secretary for Multifamily Housing, Room 6124, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–4135. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 755–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

This rule finalizes two previously published interim rules amending HUD's regulations governing allocation of budget authority. The first rule, published on August 4, 1993 (58 FR 41426), added two subcategories of budget assistance to § 791.403 for uses that the Secretary determines are incapable of geographic allocation by formula: (1) Budget authority as identified in the Operating Plan submitted to the Appropriations Committees; and (2) Budget authority involving recently enacted legislation which prescribes that a portion of program assistance be set aside or otherwise mandated for other than general use. The second rule, published on July 11, 1994 (59 FR 35253), increased the amount of funding available under the Headquarters Reserve.

A. August 4, 1993 Interim Rule

The first subcategory added by the August 4, 1993, interim rule was budget authority as identified in the Operating Plan submitted to the Appropriations Committees. The ''Operating Plan'' is presented annually to the Appropriations Committees to reflect changes from the budget originally submitted to the Congress by the Administration. Its history dates back to 1987 when the Conference Report accompanying H.J. Res. 395, ''Making Further Continuing Appropriations for the Fiscal Year Ending September 30, 1988,'' stated that ''because of the substantial changes in many accounts from the budget estimates (including a number of general reductions), the conferees direct that [HUD and the Independent Agencies covered in the same appropriation] submit a fiscal year 1988 operating plan by February 1, 1988.'' H.R. Rep. 100–498 (Dec. 22, 1987), at 837. The statement added that ''the conferees expect such operating plans to include recommended changes from the budget estimates except that no reductions may be proposed in programs, projects, or activities for which funding has been added by the Congress.'' Ever since that time, the Department has furnished the Committees an Operating Plan annually which identifies changes from published estimates, including reprogramming within amounts set out in the Conference Report table.

The August 1993 interim rule also added a second subcategory of budget authority incapable of geographic allocation by formula consisting of recently enacted legislation which prescribes that a portion of program assistance be set aside or otherwise mandated for other than general use. Recent HUD authorization statutory amendments contain provisions which have the effect of specifically targeting appropriated funds. For example, section 101(b) of the Housing and Community Development Act of 1992, Pub.L. 102–550 (Oct. 28, 1992), amended the United States Housing Act of 1937 to require funding of $20 million in both FY 1993 and FY 1994 for section 8 15 year contracts for project-based assistance to be used for a multi-cultural tenant empowerment and homeownership project located in the District of Columbia. This assistance obviously is incapable of geographic allocation by formula because it is expressly authorized for one city only.

In the first year following enactment of set-asides like the one described immediately above, the Operating Plan could be expected to address these newly established purposes. In subsequent years, however, they would have been incorporated in the Department's budget. For that reason, the interim rule also added to § 791.403(b)(ii) the subcategory of assistance included in an authorization statute, such as set-asides, where the Secretary determines that such assistance is incapable of geographic allocation by formula.

B. July 11, 1994 Interim Rule

The interim rule published on July 11, 1994 (59 FR 35253), increased the amount of funding available under the Headquarters Reserve. In the preamble of that rule, HUD explained that it was further implementing section 213(d) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 1439(d), so as to maximize flexibility in the provision of the Headquarters Reserve authorized under section 213(d)(4) of the Act.

Section 213(d)(4) permits the Secretary of HUD to retain not more than five percent of the financial assistance that becomes available under all programs authorized under the United States Housing Act of 1937 (except for public housing operating subsidy under section 9 and modernization funding under section 14). Prior to the July 11, 1994, interim rule, the Headquarters Reserve at § 791.407 was more delimited—it only permitted a Headquarters Reserve of five percent of the total amount of budget authority which is ''fair shared'' pursuant to part 791, subpart D. The effect of the regulatory limitation was to narrow considerably the base upon which the five percent Reserve was calculated, as compared to what the statute permits.

The July 11, 1994, interim rule expanded the base by including not only the amount of funding which is fair shared pursuant to the formula at § 791.403(b)(2), but also all budget authority allocated for uses that the Secretary determines are incapable of geographic formula, as spelled out at § 791.403(b)(1). Examples of the latter category include amendments of existing contracts, renewals of assistance contracts, the section 8 loan management and property disposition accounts, assistance earmarked by the Congress in appropriation law line items, and uses of budget authority identified in the Department's Operating Plan submitted to the Appropriations Committee.

While the interim rule increased the amount of funding available under the Headquarters Reserve, it did not change the limited statutory purposes for which funding may be used. Headquarters Reserve funding can only be used for unforeseen housing needs resulting from natural and other disasters; housing needs resulting from emergencies, as certified by the Secretary, other than such disasters; housing needs resulting from the settlement of litigation; and housing in support of desegregation efforts.

As we stated in the preamble of the July 11, 1994, interim rule, because the incidence of these types of housing assistance funding are unpredictable, the availability of readier resources through an increased Reserve is one which HUD will only call upon as needed. Although a greater amount of budget authority is now available under current regulations, HUD may not use the full statutory maximum in any particular year. The draw upon the Reserve will be carefully tempered to exigencies and real, immediate need.

Finally, as noted in the interim rule, the base upon which the Headquarters Reserve is calculated does not include the section 202 program of supportive housing for the elderly. Section 801(b) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) removed the section 202 program from coverage under section 213(d). However, NAHA did not repeal a previous amendment to section 213(d)(1)(A)(i) made by section 101 of the Department of Housing and Urban Development Reform Act of 1989 (Reform Act). The Reform Act amendment requires that section 202 assistance be allocated in a manner that ensures that awards of that assistance are made for projects of sufficient size to accommodate facilities with supportive services appropriate to the needs of frail elderly residents. Moreover, the Department has elected to continue the fair sharing of section 202 housing assistance in order to promote fair and balanced geographic diversity. (The fair sharing formula for section 202 assistance is specifically tailored at § 791.402(c)(1) to reflect relevant characteristics of the elderly population.) Notwithstanding this retention of section 202 allocations in part 791, and the continued policy of fair sharing section 202 housing assistance, the statutory range for calculation of the five percent Headquarters Reserve is limited to programs under the United States Housing Act of 1937 which are covered by section 213(d).

C. Conforming Changes in Today's Final Rule

In addition to finalizing changes made in the two previously published interim

rules, this rule adds several conforming changes to part 791. First, because the section 202 elderly housing program is no longer a loan program, the reference to that effect is removed from § 791.401. Second, because section 101 of the Reform Act eliminated the statutory requirement of between 20 and 25 percent of non-metropolitan area funding, insofar as it had applied to the Headquarters Reserve, it is being deleted from § 791.403(a). Third, because of the Department's reorganization which specifically eliminated the former Regions, Regional Administrators, Field Office Managers, and the functions previously performed by them, technical revisions are made to §§ 791.403(b)(2) and 791.405 to replace certain nomenclatures.

II. Discussion of Public Comment

The Department did not receive any public comments in response to the August 4, 1993, interim rule. The Department received two public comments in response to the July 11, 1994, interim rule. The first comment was from the Housing Authority of the City of Los Angeles which expressed its support of the rule, especially as it enhances the Secretary's ability to respond to unique disaster and emergency situations. The second comment was from the Oklahoma Housing Authority which urged consideration of three factors. First, the commenter stated that there is often no available housing when emergency funding is needed, so that HUD should consider purchasing modular-type housing rather than providing section 8 certificates. Neither this rule, nor its statutory authorization at section 213 of the Housing and Community Development Act of 1974, as amended, permits substitution of other resources for section 8 certificates, so that the alternative proposed by the commenter would not be viable in this context.

This commenter further stated that HUD should consider the impact on portability when additional certificates are placed within a community. The Department acknowledges that relative unavailability of housing in a jurisdiction may result in utilization of portability to locate housing in other areas. Nevertheless, the purpose of the disaster and emergency set-aside authority is to provide relief for persons and families who are adversely affected by these conditions and who will utilize the assistance in a manner most efficacious to them.

Finally, this commenter contended that the funding set-aside should be motivated completely by need. The Department agrees with this comment. In the preamble of the interim rule, HUD stated that, ''[t]he draw upon the Reserve will be carefully tempered to exigencies and real, immediate need.'' However, no regulatory text change is necessary to incorporate this argument.

III. Other matters

A. Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays, at the office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

B. Regulatory Flexibility Act

The Secretary in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule revises existing procedures for the allocation of housing assistance funds and for local government and HUD review of applications for housing assistance, but will make no change in the economic impact of these procedures on small entities.

C. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the HUD regulations, the policies and procedures contained in this rule relate only to internal administrative procedures whose content does not constitute a development decision nor affect the physical condition of project areas or building sites, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

D. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, *Federalism,* has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Specifically, this rule will not substantially alter the established roles of HUD and the States and local governments, including PHAs, in administering the affected programs. As a result, the rule is not subject to review under the order.

E. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

F. Regulatory Agenda

This rule was listed as item number 1389 in the Department's Semiannual Agenda of Regulations published on May 8, 1995 (60 FR 23368, 23380) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

G. Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest.'' (24 CFR 10.1)

The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, because prior public procedure is unnecessary. The two changes added to this final rule (discussed above in section I(c) of the preamble) are merely technical, conforming changes.

H. The Catalog of Federal Domestic Assistance program numbers are as follows:

14.103 Interest Reduction Payments—Rental and Cooperative Housing for Lower Income Families
14.149 Rent Supplements—Rental Housing for Lower Income Families
14.156 Lower Income Housing Assistance Program (Section 8)
14.157 Housing for the Elderly or Handicapped
14.177 Housing Voucher Program
14.850 Public and Indian Housing

14.851 Low Income Housing—Homeownership Opportunities for Low Income Families

List of Subjects in 24 CFR Part 791

Grant programs—housing and community development, Indians, Intergovernmental relations, Public housing, Rent subsidies.

Accordingly, 24 CFR part 791 is amended as follows:

PART 791—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

1. The authority citation for 24 CFR part 791 is revised to read as follows:

Authority: 42 U.S.C. 1439 and 3535(d).

2. Section 791.401 is revised to read as follows:

§ 791.401 General.

This subpart establishes the procedures for allocating budget authority under section 213(d) of the Act for the programs identified in § 791.101(a). It describes the allocation of budget authority by the appropriate Assistant Secretary to the applicable Program Office Director in the HUD State or Area Office, and by the Program Office Director to allocation areas within the HUD State or Area Office jurisdiction.

3. Section 791.403 is amended by revising paragraphs (a), (b)(1)(ii), and (b)(2), to read as follows:

§ 791.403 Allocation of housing assistance.

(a) The Assistant Secretary for Housing and the Assistant Secretary for Public and Indian Housing shall confer to determine how the available budget authority is to be allocated. The total budget authority available for any fiscal year shall be determined by adding any available, unreserved budget authority from prior fiscal years to any newly appropriated budget authority for each housing program. On a nationwide basis, at least 20 percent, but not more than 25 percent, of the total budget authority available for any fiscal year, which is allocated pursuant to paragraph (b)(2) of this section, shall be allocated for use in non-metropolitan areas.

(b) * * *

(1) * * *

(ii) Assistance which is—

(A) The subject of a line item identification in the HUD appropriations law, or in the table customarily included in the Conference Report on the appropriation for the Fiscal Year in which the funds are to be allocated;

(B) Reported in the Operating Plan submitted by HUD to the Committees on Appropriations; or

(C) Included in an authorization statute where the nature of the assistance, such as a prescribed set-aside, is, in the determination of the Secretary, incapable of geographic allocation by formula,

* * * * *

(2) Budget authority remaining after carrying out allocation steps outlined in paragraph (b)(1) of this section shall be allocated in accordance with the housing needs percentages calculated under § 791.402 (b), (c), (d), and (e). HUD may allocate assistance under this paragraph in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in §§ 791.101(a) in each fiscal year. If the budget authority for a particular program is insufficient to fund feasible projects, or to promote meaningful competition at the State/Area Office level, budget authority may be allocated among the ten geographic Areas of the country. The funds so allocated will be assigned by Headquarters to the State/Area Office(s) with the highest ranked applications within the ten geographic Areas.

* * * * *

4. Section 791.405 is revised to read as follows:

§ 791.405 Reallocations of budget authority.

(a) The State/Area Office shall make every reasonable effort to use the budget authority made available for each allocation area within such area. If the Program Office Director determines that not all of the budget authority allocated for a particular allocation area is likely to be used during the fiscal year, the remaining authority may be allocated to other allocation areas where it is likely to be used during that fiscal year.

(b) If the Assistant Secretary determines that not all of the budget authority allocated to a State/Area Office is likely to be used during the fiscal year, the remaining authority may be reallocated to another State/Area Office where it is likely to be used during the fiscal year.

(c) Any reallocations of budget authority among allocation areas or State/Area Offices shall be consistent with the assignment of budget authority for the specific program type and established set-asides.

(d) Notwithstanding the requirements of paragraphs (a) through (c) of this section, budget authority shall not be reallocated for use in another State unless the appropriate Program Office Director or the Assistant Secretary has determined that other allocation areas within the same State cannot use the available authority during the fiscal year.

5. Section 791.407 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 791.407 Headquarters Reserve.

(a) A portion of the budget authority available for the housing programs listed in § 791.101(a), not to exceed an amount equal to five percent of the total amount of budget authority available for the fiscal year for programs under the United States Housing Act of 1937 listed in § 791.101(a), may be retained by the Assistant Secretary for subsequent allocation to specific areas and communities, and may only be used for:

* * * * *

Dated: June 27, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–16489 Filed 7–5–95; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF TREASURY

Fiscal Service

31 CFR Part 321

Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes (Freedom Shares)

CFR Correction

In Title 31 of the Code of Federal Regulations, parts 200 to end, revised as of July 1, 1994, on page 190, paragraph 16 of the appendix to part 321 was incorrectly revised. Paragraphs (a) through (e) following paragraph 16 should have been removed.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–09; Notice 42]

RIN 2127–AF02

Federal Motor Vehicle Safety Standards; Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This document amends Standard No. 213, *Child Restraint Systems,* to add a greater array of sizes and weights of test dummies to Standard 213 for use in compliance tests. This rule improves the safety of child restraint systems by providing for evaluation of their performance in a more thorough manner. Incorporating additional test dummies for use in compliance tests has been one of NHTSA's main initiatives for upgrading Standard 213. It also responds to the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act (''ISTEA'')), which directed NHTSA to initiate rulemaking on child seat safety.

DATES: For add-on (portable) child restraint systems, this rule is effective on January 3, 1996. For built-in systems, this rule is effective on September 1, 1996.

Petitions for reconsideration of the rule must be received by August 7, 1995.

ADDRESSES: Petitions for reconsideration should refer to the docket and number of this document and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, D.C., 20590.

FOR FURTHER INFORMATION CONTACT: Dr. George Mouchahoir, Office of Vehicle Safety Standards (telephone 202–366–4919), or Ms. Deirdre Fujita, Office of the Chief Counsel (202–366–2992), National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

This rule amends Federal Motor Vehicle Safety Standard No. 213, ''Child Restraint Systems'' (49 CFR 571.213), to add three test dummies for use in compliance testing under the standard and to remove one of the two dummies currently used. The effect of this amendment is to provide a better evaluation of the ability of child restraint systems to restrain the range of children recommended for those systems. The notice of proposed rulemaking (NPRM) for this rule was published March 16, 1994 (59 FR 12225).

a. Current Requirements

Standard 213 applies to any device, except Type I (lap) or Type II (lap/shoulder) seat belts, designed for use in a motor vehicle or aircraft to restrain, seat, or position children whose mass is 23 kilograms (kg) (50 pounds) or less. The standard evaluates the performance of child restraint systems in dynamic tests under conditions simulating a frontal crash of an average automobile at 48 kilometers per hour (kph) (30 miles per hour (mph)).

The dynamic tests are conducted using a test dummy. Currently, Standard 213 (S7) specifies that a dummy representing a 6-month-old child be used for testing a child restraint system that is recommended by its manufacturer for use by children in a mass range that includes children whose mass is 9 kg (weighing 20 pounds) or less. That dummy, which is uninstrumented, is specified in subpart D of 49 CFR part 572. A dummy whose mass is 15 kg (weighing 33 pounds), representing a 3-year-old child, is used for testing a child restraint system that is recommended for children whose mass is 9 kg or more (weighing 20 or more pounds). This dummy is instrumented with accelerometers for measuring accelerations in the head and chest during impacts, and is specified in 49 CFR Part 572, subpart C.

The requirements to be met by a child restraint in the dynamic testing include maintaining its structural integrity, retaining portions of the dummy within specified excursion limits (limits on how far specified portions of the body may move forward), and in the case of the 3-year-old dummy, limiting the forces exerted on the head and chest of the dummy in the crash. These requirements reduce the likelihood that the child using a child seat will be injured by the collapse or disintegration of the seat, by contact with the interior of the vehicle, or by imposition of intolerable forces by the seat.

b. Statutory and Regulatory Origins

This rulemaking addresses several goals of NHTSA. Amending Standard 213 to incorporate additional test dummies for use in compliance tests has been one of NHTSA's main initiatives for upgrading Standard 213. See, NHTSA's ''Planning Document on the Potential Standard 213 Upgrade,'' July 1991 (docket 74–09–N21). The addition of new test dummies has long been supported by manufacturers, researchers and others in the child passenger safety community. See, comments on planning document, docket 74–09–N21. Amending Standard 213 to incorporate additional test dummies for use in compliance tests also furthers the goals of the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act (''ISTEA'')). That Act directed the agency to initiate rulemaking on child booster seat safety and other issues.

In response to ISTEA, NHTSA initiated rulemaking by publishing an advance notice of proposed rulemaking (ANPRM) on May 29, 1992 (57 FR 22682). Two rulemaking actions resulted from the ANPRM. The first, completed July 21, 1994 (59 FR 37167), facilitated the manufacture of ''belt-positioning'' child seats (booster seats designed to be used with a vehicle's lap/shoulder belt system). Facilitating the manufacture of belt-positioning seats fulfilled the goal of ISTEA because belt-positioning seats improve child seat safety. They are capable of accommodating a wider range of child sizes than currently manufactured shield-type booster seats. Also, belt-positioning seats used with vehicle lap/shoulder belts appear to perform better than shield booster seats used with vehicle lap/shoulder belts. (The performance of the shield-type booster seems to be negatively affected when the shoulder belt is routed in front of the child. However, the performance of this booster seat did not appear to be significantly affected when the shoulder portion of the belt system is routed behind the child, when compared to tests conducted with a lap-only belt.)

Today's final rule completes the second rulemaking action resulting from the ISTEA-directed 1992 ANPRM. This

rule furthers the goals of ISTEA, which were illuminated by the legislative history for the directive found in § 2503 of the Authorization Act. The directive evolved from a booster seat safety provision in S. 1012, a bill reported by the Senate Committee on Commerce, Science, and Transportation, and added verbatim to the Senate's surface transportation bill (S. 1204). (S. 1012, 102d Cong., 1st Sess. § 209 (1991).)[1] The Senate Commerce Committee report on S. 1012 expressed concern about suggestions that booster seats, ''depending on their design, can be easily misused or are otherwise harmful.'' The Committee also stated that the mandate in S. 1012 was a response to concerns expressed in a study performed for NHTSA entitled, ''Evaluation of the Performance of Child Restraint Systems.'' According to the Committee, the study showed that some booster seats ''may not restrain adequately a child in a crash, and some may put pressure on the child's abdomen during a crash.'' Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 83, 102d Cong., 1st Sess. 6, 18 (1991).

c. Calspan Booster Seat Study

The booster seat study mentioned in the legislative history for H.R. 2950 was performed for NHTSA by Calspan Corporation. The study, ''Evaluation of the Performance of Child Restraint Systems,'' DOT HS 807 297, May 1988, evaluated the performance of ''shield-type'' booster seats in restraining children of the size and age for whom those seats were recommended. Shield-type boosters are designed to be secured to the vehicle seat by a lap belt that usually is placed around the shield. The shield restrains the upper torso of the child from moving forward in a frontal crash or sudden stop.

Concerns about shield-type boosters arose from the recommendations by manufacturers about the size of children which could appropriately use a particular booster. Particular designs or models of boosters were typically recommended for a broad range of children. Often, the seats were recommended for use by children whose masses are from about 9 to 32 kg (weighing from about 20 to 70 pounds). Such recommendations engendered concerns as to whether these boosters could provide adequate protection for children ranging from nine-month-old infants, whose average mass is 9 kg (20 pounds), to six-year-old and older children (an average six-year-old's mass is 22 kg (48 pounds).

The study discussed issues that are not addressed by current Standard 213. The ability of the restraint to protect children at or near the extremes of the recommended mass/weight range cannot currently be determined in Standard 213 compliance testing. As noted above, a booster's compliance with the standard is evaluated using only the three-year-old child dummy, whose mass is 15 kg (33 pounds). So tested, the restraints must meet Standard 213.

However, the Calspan program was not limited to the three-year-old dummy. Two other dummies were used, one representing a nine-month-old infant and the other, a six-year-old child. (These are the two sizes of the dummies adopted in today's rule.) The array of dummies represented children at the extremes of the weight ranges identified by the manufacturer as being suitable for the restraint.

The Calspan research program tested all 11 of the booster seats on the market during summer 1987. All 11 boosters were recommended for use by children with a minimum mass of 11 kg to a mass of 25 kg (weighing a minimum of 25 to 55 or more pounds). They were tested in a 48 kph (30 mph) sled test with the three-year-old and six-year-old dummies. Six booster seats were recommended for use by children whose masses are 11 kg or less (25 pounds or less). These seats were tested with the nine-month-old dummy, in addition to the two other dummies.

1. Calspan's Findings

Calspan found dummy head excursions exceeding the 810 millimeter (mm) (32 inch) limit specified in Standard 213. In tests with the six-year-old dummy, the head excursion limit was exceeded by 9 out of 11 booster seat models, with measurements in the range from 810 to 900 mm (32.0 to 35.4 inches). In the research tests with the three-year-old dummy, the head excursion limit was exceeded by five of the 11 models. Head excursions did not exceed the limit in tests with the nine-month-old dummy.

Calspan also tested four of the shield-type booster seats that were recommended for older children by restraining the six-year-old dummy in the seat with a three-point auto harness. Three of the models showed HIC numbers of approximately 900, the fourth had a HIC of 1238.

Calspan observed dummy ejections from the seats during the rebound phase of the dynamic test. Ejections occurred for three out of six models tested with the nine-month-old dummy, for two models tested with the three-year-old dummy, and for one model tested with the six-year-old dummy.

2. Follow Up Testing

NHTSA conducted additional research testing following the Calspan study to obtain more data about booster seat performance with different dummies.

Nine booster seats were tested with the three dummies used in the Calspan study. The seats performed well with the three-year-old dummy; the performance measures of Standard 213 were satisfied. However, the seats were generally unsuitable for the nine-month-old dummy. The dummy was ejected from seven of nine seats. Similarly, the seats generally did not provide adequate restraint for the six-year-old dummy. Seven of nine seats yielded head excursions that exceeded 810 mm (32 inches). Two of the seats also had structural failures with the six-year-old dummy. ''Evaluation of Booster Seat Suitability for Children of Different Ages and Comparison of Standard and Modified SA103C and SA106C Child Dummies,'' VRTC–89–0074, February 1990.

3. Implications of Research Findings

The implication of the Calspan and NHTSA test results was that test dummies representative of a wide range of child sizes were needed in Standard 213 to more effectively test the performance of booster seats and other child restraint systems. What seemed especially needed was an array of dummies representing children at or near the extremes of the weight ranges identified by a manufacturer as being suitable for any type of child restraint.

With the end in mind of incorporating new dummies into Standard 213 for compliance testing purposes, NHTSA completed specifications for the newborn, 9-month-old and 6-year-old child test dummies. The agency also completed rulemaking in 1991 and 1993 incorporating those specifications into Part 572, the agency's regulation on anthropomorphic test dummies. The biofidelity, reliability and repeatability of the test dummies were discussed in the documents incorporating the dummies into part 572. *See,* final rule

[1] As adopted by the Senate, the provision would have required rulemaking to be initiated within 30 days after the date of enactment of the Authorization Act and completed within 12 months after the date of the enactment. The conferees adopted the booster seat provision from the Senate bill, but amended it so that it no longer required that the booster seat rulemaking be both initiated and completed within a specified period of time. Instead, it simply required that rulemaking on that subject be initiated within a specified period of time. Conference Report to Accompany H.R. 2950, H.R. Conf. Rep. No. 404, 102d Cong., 1st Sess. (1991).

for newborn dummy (January 8, 1993, 58 FR 3229); 9-month-old dummy (August 19, 1991; 56 FR 41077); 6-year-old dummy (November 14, 1991; 56 FR 57830). Those rulemakings on part 572 standardized the test dummies and comprised a first step toward incorporating the dummies into Standard 213 compliance tests. Following that rulemaking, NHTSA issued the NPRM for today's rule.

d. Overview of NPRM

That NPRM proposed adding the newborn, 9-month-old and 6-year old child test dummies to Standard 213. It specified how NHTSA would determine the child dummy or dummies to be used in testing a particular child restraint system. It proposed detailed descriptions of the clothing, conditioning and positioning procedures for the dummies to ensure that the test conditions are carefully controlled. It proposed the use of these dummies to determine compliance with existing performance criteria (e.g., head and chest injury criteria and excursion limits) that a child restraint must meet before, during and after dynamic testing involving restraint of a dummy. The NPRM proposed to allow manufacturers 180 days leadtime to comply with the proposed requirements (i.e., proposed an effective date for the rule of 180 days after the date on which the rule is published).

In addition, the NPRM proposed miscellaneous amendments to Standard 213. The notice also sought to obtain information on child restraining devices that are designed to be attached to a vehicle's Type II belt system to improve the fit of the belts on children (and in some cases, on small adults).

e. Overview of Comments

The NPRM attracted a variety of commenters. Commenters included vehicle and child seat manufacturers (Ford, Cosco, Safeline Children's Products, Century Products); a child seat accessory manufacturer (Redlog Products Inc.); a dummy manufacturer (First Technology Safety Systems); industry groups (American Automobile Manufacturers Association, Insurance Institute for Highway Safety); and child passenger groups and consultants (Advocates for Highway and Auto Safety, CompUTence, the University of Michigan-Child Passenger Protection Program, SafetyBeltSafe U.S.A.). Commenters also included Transport Canada, the Australian Roads and Traffic Authority, United Airlines, and the University of Illinois.

Commenters were generally favorable toward the idea of adding a newborn, 9-month old and 6-year old test dummy to FMVSS 213. (A few commenters, discussed below in the next section, raised a concern about whether adding new dummies was justified.) Several commenters suggested adding newer, more advanced dummies. Many commenters suggested changes on the proposed criteria to be used in determining which dummies would be used to test a particular child restraint (i.e., the proposed weight and height ranges). There were also comments on the proposed performance criteria that a child restraint must meet when restraining the dummy used to test the restraint. Some commenters suggested a longer leadtime for any new requirement. These and other issues are discussed below.

f. Overview Comparison of NPRM and Final Rule

The main differences between the provisions of this final rule and those of the NPRM relate to the following matters. This rule clarifies the provisions used to determine which dummy is used to test a child restraint system. It also requires that each child restraint be labeled with information regarding the standing height (instead of sitting height) of children for which the restraint is designed. This rule slightly changes the provisions for testing buckle release requirements, so that only the heavier dummy of a range of dummies will be used to assess compliance with the requirement. This rule also changes how compliance with the standard's knee excursion requirement for built-in seats will be evaluated. In addition, the rule excludes child seats with a mass of less than 4 kg from an adopted requirement that the mass of the child seat not impose any load on the child occupant in a crash. In response to commenters, a longer leadtime for the rule is provided to manufacturers of built-in restraint systems.

II. Amendments for New Dummies

a. General Acceptability

Overall, commenters supported the proposal to add new test dummies to Standard 213 compliance testing. However, as discussed below, some commenters suggested adding dummies other than those proposed in the NPRM. Some commenters also recommended changes to the provisions for determining which dummy or dummies are to be used for testing child restraints.

Concerning the first issue, some commenters wanted NHTSA to adopt newer, and what they believed to be more advanced, dummies than the proposed child dummies. The American Automobile Manufacturers Association (AAMA) agreed with adopting the newborn infant dummy and retaining the 3-year-old dummy currently specified in Standard 213. However, AAMA suggested adopting a new 12-month-old dummy (referred to as the Child Restraint and Air Bag Interaction (CRABI) dummy) instead of the proposed 9-month-old dummy, and a 6-year-old child dummy based on the 50th percentile male Hybrid III dummy, instead of the proposed part 572 6-year-old dummy (referred to as the SA106C dummy). ''These new [CRABI and Hybrid III] dummies have improved anthropometric emulation and have superior instrumentation capability.'' The commenter said that while the calibration and user's manual for the dummies is not yet completed, they should be completed by the time of the effective date of today's final rule. First Technology Safety Systems, Inc., a dummy manufacturer, commented that the ''design and development'' of the CRABI 12-month-old dummy and the Hybrid III six-year-old dummy ''have been completed and are commercially available.'' In addition, First Technology, a dummy manufacturer, stated that the CRABI 12-month-old and 18-month old dummies are also commercially available.

The issue of whether NHTSA should adopt the Hybrid-III six-year-old dummy instead of the SA 106C dummy was addressed in the NPRM and in the rule adopting the six-year-old dummy specifications into part 572. NHTSA's position has been that, while the Hybrid-III dummy might have potential advantages over the SA106C dummy in the number of injury parameters the dummies can measure, rulemaking on the latter dummy should not be delayed pending assessment of the performance of the new dummy. NHTSA stated in the part 572 final rule:

> The SA106C dummy's ability to measure HIC, chest acceleration and femur loads, and its ability to replicate the motions and excursions of a child in a crash are sufficient to provide valid assessment of the injury potential of child restraint systems in a reliable manner. Since the SA106C dummy is ready now, and a final rule specifying the dummy will help improve safety, the agency believes it is appropriate to proceed with adding the dummy to part 572.

Likewise, NHTSA believes rulemaking adopting use of a six-year-old dummy in Standard 213 compliance tests should not be delayed pending evaluation of the suitability and availability of the dummy as a test device. Such evaluation will be

undertaken in the near future. The Insurance Institute for Highway Safety (IIHS) concurred with the agency's tentative decision that incorporating a six-year-old dummy into Standard 213 should not wait for the Hybrid III six-year-old dummy.

The CRABI 12-month-old dummy appears to have a number of advantages over the nine-month-old part 572 dummy. Problems instrumenting the nine-month-old dummy arose during the course of the dummy's development. Those problems, relating to the repeatability and reproducibility of the head and chest accelerometer measurements, led the agency to decide the dummy could not be instrumented at the time. By contrast, the CRABI 12-month-old dummy has accelerometers to measure head, chest and pelvic acceleration and head angular acceleration. Preliminary indications from tests performed on the dummy by members of the Infant Dummy Task Group of the Society of Automotive Engineers (SAE) show that the CRABI dummy has good potential as a Standard 213 test device.

However, the CRABI 12-month dummy is not ready for use as a Standard 213 compliance instrument. Its evaluation by industry and users has identified possible problems with the dummy. For example, the dummy systematically vibrated during dynamic testing, and its neck did not appear to have adequate rotational capability. In February 1995, the dummy was finalized by the manufacturer and evaluated by the SAE Infant Dummy Task Force. NHTSA is in the process of procuring the dummy and instrumentation for evaluation. Transport Canada believes that, until the one-year-old dummy is ready, the proposed nine-month-old is appropriate for testing.

Commenters seeking to have NHTSA adopt dummies that are more advanced than the proposed dummies did not show that the latter dummies have limitations warranting their exclusion from use in Standard 213 testing. Information on the performance of the dummies in tests conducted subsequent to their incorporation into Part 572 did not indicate any problems with their performance. Recently, these dummies were used along with the Part 572 three-year-old in a large number of sled tests that NHTSA conducted as part of its child safety research program that was described in the agency's 1991 planning document to upgrade Standard 213. These dummies appeared to perform satisfactorily. The findings of this research program were summarized in a series of reports that were published in October 1992, under project VRTC–82–0236 ''Child Restraint Testing (Rulemaking Support).'' These reports are available from the National Technical Information Service, Springfield, Virginia, 22161.

In the event NHTSA decides that it would be desirable to undertake rulemaking to adopt newer, more advanced test dummies, it would be prudent for the agency also to consider the availability of child dummies other than the CRABI dummies as possible Standard 213 test devices. For example, the Institute Voor Wegtransportmiddelen (TNO) of the Netherlands is developing the TNO P1–1/2 dummy to represent an 18-month-old child. NHTSA cannot ascertain the suitability of the Hybrid-III six-year-old and the CRABI 12-month-old dummies as Standard 213 test devices, nor their superiority over alternative test dummies, without taking appropriate steps to evaluate their relative performance.

Ford raised an issue about the suitability of the 6-year-old dummy based on a film of the 6-year old dummy in a dynamic test. The commenter said that on the film, the dummy seemed to have an unusual, unrealistic abdominal design that prevents the dummy from submarining (i.e., sliding too far forward and downward, legs first) during the test. Ford said that this feature will result in the dummy ''passing'' the knee excursion limit of FMVSS 213, when in an actual crash, a child could submarine and thus be ejected.

NHTSA does not believe the design of the dummy results in the test problems Ford identified. In the final rule that adopted the 6-year-old dummy into Part 572 (56 FR 57830; November 14, 1991), NHTSA acknowledged there is a gap at the pelvis-femur juncture of the dummy, and that it seemed plausible that it could interfere with the dummy's ability to assess the submarining potential of a restraint system. In the rule, NHTSA said an apron-like shield could be used to cover the gap, if tests with the 6-year-old dummy showed the gap to be a problem. 56 FR at 57835. NHTSA has not found any such problem. Over the last several years, the agency extensively used the 6-year-old dummy in tests of booster seats with lap or lap/shoulder belt systems. Films of the tests do not show lap belts catching in the gap at the dummy's abdomen. Accordingly, NHTSA concludes the dummy is suitable for measuring submarining potential without the need for an apron. (Examples of such testing are described in the following reports, which are available from the National Technical Information Service, Springfield, Virginia, 22161: ''Evaluation of Belt-Positioning Booster Seats and Lap/Shoulder Belt Test Procedures,'' DOT-HS–808–005, October 1992; and ''Booster Seat Evaluation, Belt Anchorage Location Effect and Performance in Rear-Facing Seats,'' DOT-HS–808–092, September 1993.)

b. Specific Issues

This section discusses provisions for determining which dummy or dummies are to be used for testing a particular child restraint, a provision that allows booster seats to be certified without meeting the seat back height requirement, injury criteria, buckle release requirements and other amendments, and leadtime. In addition, this section discusses metrication, an issue which seemed minor at the time of the NPRM, but generated a number of comments.

1. Metrication

In accordance with its plan to convert its standards to the metric system, NHTSA used metric and English units in the preamble of the NPRM to describe the criteria (child's mass/weight and height) that would determine which dummy or dummies would be used to test a child restraint. The preamble stated that English units that are in sections of Standard 213 affected by the NPRM would be converted to metric (SI, The International System of Units) units in the rule. The preamble stated, by way of example, that references to ''20 pounds'' would be replaced by ''nine kilograms.'' The proposed regulatory text of the NPRM used only metric units for most of the proposed amendments. However, the proposed regulatory text showed only English units on the restraint label that informs the consumer of the manufacturer's recommendations for the maximum mass/weight and height of children who can safely occupy the system.

Several commenters asked for clarification of the metrication of the standard. The main concern of some commenters concerned the exactness of the metric conversion. UM–CPP said that the use of SI units in the standard and all English units in the labeling will cause confusion. That commenter and AAMA suggested the labeling have SI units for the primary units with reasonable English equivalents in parentheses. Cosco suggested English units be used as the standard, with approximate kilogram conversions.

The significance of these comments relates to Standard 213's procedure for determining which test dummy is used to test a restraint. Under the standard's

procedures, NHTSA reads the child restraint label to see what masses of children are recommended for the restraint, then refers to the provisions in the standard that specify which dummies are used to test restraints with those usage particular recommendations. The commenters wanted NHTSA to make clear which system of units (the SI or English unit) it will use for selecting dummies to test a child restraint under Standard 213. Some commenters were concerned that NHTSA will read a label that makes recommendations in English units, will convert the English units to SI units, then determine which dummy to use based on the SI units (or vice versa). It was feared that in those instances in which the upper or lower limit of a restraint manufacturer's recommended range of users is very close to the dividing line in the standard between different dummies, the conversion process could broaden the range just enough to necessitate the use of a different dummy in compliance testing.

NHTSA has made the following decisions on the metrication issue. Since NHTSA is converting to the metric system, the agency agrees with the commenters that SI units should be stated on the child seat label. The agency also agrees with commenters that the American consumer generally is not familiar with the metric system, and that English units must therefore also be provided on the label. NHTSA does not believe having both metric and English units will be confusing to consumers; it is not uncommon for consumer goods to be labeled in both units. As to which unit will control the selection of dummies for compliance testing, since NHTSA is converting to the metric system, the agency will refer *only* to the SI value to determine which dummy will be used to test a child restraint. The English-expressed unit conversions can be approximate equivalents, used to communicate the recommended child's weight and height to the consumer. As a guide for converting SI units to English ones, the University of Illinois provided the following conversion factors, with which NHTSA agrees. The conversion factor multiplier from pound mass to kilogram is 0.45359237, and the muliplier from pound-force to newton is 4.4482216152605. Conversion values are to be rounded to an appropriate number of significant digits.

2. Dummy Selection Based On Recommended Mass and Height of Child Restraint Users

Standard 213 requires each manufacturer to label its child restraint with its recommendations for the maximum weight and height of children who can safely occupy the system. Under the test procedures of the standard, NHTSA selects the test dummies that would be used to test a child restraint by referring to the weight recommendation. The NPRM proposed to amend the procedures such that the agency would base its selection of test dummies by referring to both the mass/weight and height recommendations. (As noted in the previous section, under today's rule, the SI value, rather than the English unit, will govern the dummy selection.) As explained in section C below, NHTSA proposed to use the recommended height as a criterion in the dummy selection as a means of ensuring that the recommended mass ranges are consistent with the recommended height ranges. For instance, without the criterion, a manufacturer could create an inconsistency by recommending a height range that corresponds to children who are of greater mass than that expressly recommended by the manufacturer for that restraint.

A. Mass ranges. This rule revises the mass ranges proposed in the NPRM for determining which dummies are to be used for testing a child restraint.

- The NPRM proposed the following provisions for determining which dummy or dummies are to be used for testing child restraints.
- A child restraint that is recommended by its manufacturer for children in a specified weight range that includes any children having a mass less than 4 kg (i.e., weighing less than approximately 9 pounds) is tested with a newborn test dummy conforming to part 572 subpart K.
- A child restraint that is recommended for children in a specified weight range that includes any children having masses from 4 to not more than 9 kg (weights of 9 to 20 pounds) is tested with a newborn test dummy and a 9-month-old test dummy conforming to part 572 subpart J.
- A child restraint that is recommended for children in a specified weight range that includes any children having masses from 9 to not more than 13.5 kg (weights of 20 to 30 pounds) is tested with a 9-month-old test dummy and a 3-year-old test dummy conforming to part 572 subpart C.
- A child restraint that is recommended for children in a specified weight range that includes any children having masses equal to or greater than 13.5 kg (30 pounds and above) is tested with a 3-year-old test dummy and a 6-year-old test dummy conforming to part 572 subpart I.

For the convenience of the reader, the following table depicts these provisions:

NPRM RANGES

Recommended mass of child suitable for the restraint	Dummy(ies) used for compliance test
Birth—4 kg or less (9 lbs or less).	Newborn.
More than 4 kg—9 kg (20 lbs).	Newborn—9-month-old.
More than 9 kg—13.5 kg (30 lbs).	9-month-old—3-yr-old.
More than 13.5 kg or 30 lbs.	3-yr-old—6-yr-old.

The NPRM proposed that, if a child restraint is recommended for a weight range of children that overlaps, in whole or in part, two or more of the ranges set out above, the restraint would be tested with the dummies specified for each of those ranges. Thus, for example, if a child restraint were recommended for children from birth to 13.5 kg, the seat would be tested with the newborn, 9-month-old and 3-year-old dummies.

The public commented on both the mass/weight classes and on the size and number of the dummies that are used to test child restraints in each weight class.

With regard to the mass/weight classes, all commenting child restraint manufacturers and the University of Michigan Child Passenger Program (UM–CPP) made almost identical suggestions for the break points of the mass/weight classes. Some commenters stated that the second and third mass classes should be divided at 10 kg (22 lbs), rather than 9 kg (20 lbs), as proposed. The commenters believed the rear-facing position is safer for an infant, and the change would encourage manufacturers to recommend positioning an infant rear-facing at least until the child is one year old. The average one-year-old has a mass of 10 kg (22 lbs). Under the NPRM, an infant (rear-facing) seat recommended for children up to 10 kg (22 lbs) could be tested with a three-year-old dummy. UM–CPP believed the mass classes should be divided at 10 kg to simplify the possible future incorporation of the CRABI 12-month-old, 9.7 kg dummy into Standard 213.

Cosco stated that the proposed weight/mass classes could cause problems for convertible restraints (a restraint that is adjustable so that it can be used rear-facing by an infant or a very young child, and forward-facing by a toddler). According to Cosco:

NHTSA's fourth category covers any car seats for children more than 30 pounds. This includes both convertible seats and auto boosters, and would force manufacturers to

test convertible seats with the 6-year-old dummy, which weighs from 4 to 7 pounds more than the maximum weight recommended for these seats (40 to 43 pounds). The 6-year-old dummy is also 9″ taller than the 3-year-old dummy and would almost certainly exceed the head excursion limit. Since it is doubtful that convertible car seats could pass with the 6-year-old dummy, it is likely that manufacturers would be forced to put a maximum weight of 30 pounds on their convertible seats. The proposal as it stands would therefore regulate out of existence one of the most effective types of car seats available.

NHTSA concurs with the suggestions to revise the proposed mass/weight classes. An infant must be transported rear-facing so that in a crash, the forces are spread evenly across the infant's back and shoulders, the strongest part of the child's body. Further, the back of an infant's rear-facing head rests against the seating surface. In this way, severe neck injuries are prevented. The child passenger safety community unanimously advises that infants weighing less than 20 pounds must face rearward. Moreover, child safety experts have recommended that infants ride rear-facing even after achieving a 9 kg mass (20 pound weight), to better ensure that their skeletal and muscular structure develop to a point where they can more safely withstand crash forces in a forward-facing position. Raising the upper limit of the mass/weight range to 10 kg (from the proposed 9 kg) as commenters suggest supports manufacturers' efforts to recommend infants ride rear-facing for a longer period.

NHTSA is also revising the mass/weight categories because it agrees with Cosco's comment that convertible child restraints should not be tested with the six-year-old, 21.5 kg (47.3 lbs) dummy. Convertible restraints are typically recommended for children from newborn to 18 kg (40 lbs). The six-year-old dummy is not representative of a child for whom the restraint is recommended.

Accordingly, NHTSA adopts the following mass classes for determining which dummies are used to test a child restraint system for compliance with Standard 213.

Recommended mass of child suitable for the restraint:

- Birth—5 kg (approximately 11 lbs) or less
- More than 5 kg—10 kg (approximately 22 lbs)
- More than 10 kg—18 kg (approximately 40 lbs)
- More than 18 kg (approximately 40 lbs)

B. Number and Types of Dummies. There was no consensus on the size and number of the dummies that should be used to test restraints in each mass/weight class. Some commenters strongly supported testing child restraints with a wider array of test dummies. SafetyBeltSafe U.S.A. and Advocates for Highway and Auto Safety (Advocates) supported testing child restraints with at least two dummies, each dummy at the minimum and maximum values for weight. Safeline supported using two dummies ''for each restraint position (rear- and forward-facing) and adjustment (upright, reclined, etc.).'' The Insurance Institute for Highway Safety (IIHS) supported the proposal, stating that ''compliance testing requirements and safety objectives are best served by requiring each restraint to be tested with two dummies to represent a wide range of child sizes . . .'' CompUTence, a consulting firm, supported using multiple dummies for testing systems that span a range of proposed occupants. That commenter stated:

> With regard to dummy sizes, the requirements should reflect good engineering practice. Common practice in the industry relative to selecting dummy sizes to test system integrity is to use minimum and maximum sizes to better understand what happens under the extremes of the design intent. Typically we use the small dummy to insure containment and large dummy to verify structural integrity of the [child safety seat].

Conversely, some commenters disagreed with aspects of the proposal that would provide for an infant seat, toddler seat (a child restraint that positions a child forward-facing only and is not capable of being adjusted to face an infant rearward) and a convertible seat to be tested with more than one dummy when rear-facing, and more than one dummy when forward-facing. UM–CPP and Century Products believed NHTSA should test a child restraint using only the heaviest dummy in the overall range specified by the manufacturer. These commenters believed a rear-facing seat (either infant-only or convertible used rear-facing) should be tested with the nine-month-old dummy only, rather than both the infant and the nine-month-old dummies. They also believed a convertible restraint in the forward-facing mode should be tested with only the three-year-old dummy, rather than both the nine-month-old and the three-year-old dummies. UM–CPP stated, ''[T]here is no useful purpose in running a frontal crash test of such systems with the Newborn rear-facing or the uninstrumented 9-month forward facing. No ejection will occur, and the back angle and head excursions will certainly not be exceeded.'' Century made the following remarks, which were similar to those of UM–CPP:

> We suggest [testing with only the largest of the dummies] because testing with the 9-month imposes the greatest loads and has a greater effect on seat back rotation, which is the primary performance measurement for rear-facing seats, since the dummies are uninstrumented. The NPRM does not give specific reasons or supportive data indicating the need for testing rear-facing seats with the newborn, so there does not appear to be identifiable justification for the increased cost of testing with this additional dummy rear-facing.

Cosco, a child seat manufacturer, did not expressly object to using more than one dummy to test child restraints. However, the commenter expressed its belief there was no safety need for the rulemaking since child restraints are highly effective when used properly. The commenter stated:

> Cosco is unaware of any evidence that the seats are not performing adequately when used correctly and requests NHTSA to provide such information as a basis for the proposed changes. If there is such evidence, which type of seat is not performing adequately—infant-only, convertible or auto booster—and why adopt alterations to the standard that affect all categories in order to fix the one that allegedly doesn't? * * * With the possible exception of some of the sections affecting auto booster seats, Cosco is not convinced that this proposal will result in measurable improvement in the performance of child restraints (although it will increase their cost) * * *

NHTSA has reviewed all the comments and has made the following decisions. The agency believes that child restraints should be tested with child dummies representative of the children for whom the restraint is recommended, to the extent such testing is supported by safety considerations. UM–CPP and Century are unpersuasive on the point of safety. They believe that, where a restraint falls in a mass/weight class that specifies the use of more than one dummy, only the heaviest dummy should be used to test child restraints. NHTSA disagrees. The kinematics of a child restraint and the dummy that occupies the restraint are dependent on the mass distribution and geometry of the restraint system, and on the mass (in total and distributed) and the dimensions of the occupant (height, sitting height and leg length). It is only with an array of dummies representative of the children for whom the restraint is recommended that the seat will be fully evaluated in restraining the children likely to be occupying the seat.

CompUTence commented that ''manufacturers test with a minimum and maximum size dummy to better

understand the extremes of the design intent.'' NHTSA concurs with this commenter that the ability of a child restraint system to contain an occupant is more effectively evaluated using a smaller dummy than a larger one, and that the structural integrity of a restraint is better evaluated using a larger dummy than a smaller one. This phenomenon, and the fact that the kinematics of a child restraint and its occupant are dependent on the mass and height of a child, and the distribution of mass and height, were illustrated in NHTSA's test program following up the Calspan program, *supra*. In the NHTSA program, nine booster seats were tested with the nine-month-old, three-year-old and six-year-old dummies. The seats performed well with the three-year-old dummy; the performance measures of Standard 213 were satisfied. However, the nine-month-old dummy was ejected from seven of nine seats. The six-year-old dummy experienced excessive head excursion, i.e., exceeding 810 mm (32 inches) with seven of the nine seats. Two of the seats had structural failures with the six-year-old dummy.

NHTSA concludes that the Calspan and VRTC studies show that dummies representing children at or near the extremes of the weight ranges identified by a manufacturer as being suitable for a restraint are needed to evaluate different aspects of the performance of the restraint. The smaller dummy will evaluate the potential for ejection. The heavier dummy will evaluate the structural integrity of the restraint system.

NHTSA further notes that an array will provide for a fuller evaluation of a child restraint's ability to restrain a child when subjected to the inversion test for restraints certified for use on aircraft. In the test, the child restraint and test dummy are spun around a horizontal axis. A smaller dummy is more likely to fall out of the child restraint than a larger one.

UM–CPP, Century and Cosco believed the proposal would result in unnecessary cost increases. They argued that testing a rear-facing seat with the infant dummy, and a forward-facing restraint (other than a booster seat) with the nine-month-old dummy would serve no useful purpose since the commenters believe there is no question that the restraints will pass the Standard 213 performance criteria using the dummies. The agency disagrees that no useful purpose is served by subjecting child restraints to tests with the array of dummies. When child restraints are tested with only one dummy to represent a wide range of children, there is a risk that a restraint could be designed to perform adequately using the dummy, but could perform inadequately in restraining children at the extremes of the recommended weight ranges. Certainly this was the case for booster seats at the time of the Calspan study. At that time, booster seats, which must not be used with a child having a mass of less than 13.5 kg (weighing 30 lbs), were often recommended for children with a mass as little as 9 kg (20 pounds). As noted at the beginning of this notice, under Standard 213, the booster's performance is evaluated using only the 15 kg three-year-old (33 lb) dummy, and so tested, the restraints met the standard. The performance of the child restraints in protecting children near the extremes of the recommended weight range (e.g., 20 lbs), while suspect, could not be evaluated in a compliance test.[2]

It should be noted that this rule does not require manufacturers to test with all the specified dummies. A manufacturer may believe that testing with only the largest of a set of specified dummies represents ''worst case'' testing, and that there is no need to test its restraints with the smaller dummies. That is, a manufacturer may determine that a child restraint meeting Standard 213's performance criteria when tested under worst case conditions will likely meet those criteria when tested under less severe conditions. A manufacturer that tests its child restraint for certification purposes could limit its testing cost by deciding to test only a worst case scenario, i.e., testing under the most austere or unfavorable conditions and circumstances specified in the standard.[3] In the event that the agency found an apparent noncompliance, such as an ejection, using one of the smaller dummies, the manufacturer would have to demonstrate that it was reasonable for it to conclude that testing with the large dummy represented the worst case scenario.

[2] It should be noted that Standard 213 was recently amended to prohibit manufacturers from recommending a booster seat for a child weighing less than 13.5 kg (30 lbs).

[3] Relying on worst case testing as a basis for a manufacturer's certification is commonplace among manufacturers. For example, Standard 208, ''Occupant Crash Protection,'' requires injury criteria to be met with the test vehicle traveling forward at any speed ''up to and including 30 mph'' into a fixed barrier ''that is perpendicular to the line of travel of the vehicle, or at any angle up to 30 degrees in either direction from the perpendicular'' (S5.1). Manufacturers typically test a vehicle at 30 mph into a perpendicular barrier since that is the worst case test. The manufacturers believe that if the vehicle passes that worst case test, it is reasonable to conclude it will pass less severe tests (e.g., at lower speeds into angled barriers).

Ford believes it is inappropriate to test forward-facing built-in restraints with the 9 kg nine-month-old (20 lb) dummy, because nine-month-old children should be restrained rear-facing in either infant or convertible restraints. NHTSA disagrees with the suggestion to forego use of the nine-month-old as a test instrument for forward-facing restraints. The dummy is representative of a 9 kg (20 lb) child, and is useful in determining child seat performance. The agency notes that Ford recommends its forward-facing built-in restraint systems for children whose mass is from 9 to 27 kg (weighing 20 to 60 lbs). At 9 kg (20 lbs), the nine-month-old dummy is an ideal test instrument for testing the ability of the child restraint to retain a child at the lower extreme of this recommended weight range.

NHTSA has decided that the following dummies will be used to test a child restraint if any portion of the corresponding mass ranges in the table falls within the mass range recommended by the manufacturer of that restraint:

ADOPTED PROVISIONS

Recommended mass of child suitable for the restraint	Dumm(ies) used for compliance test
Birth–5 kg or less (11 lb or less).	Newborn.
More than 5 kg–10 kg (22 lb).	Newborn. 9-month-old.
More than 10 kg–18 kg (40 lb).	9-month-old.[1] 3-yr-old.
More than 18 kg or 40 lbs.	6-yr-old.

[1] This dummy is not to be used to test booster seats.

C. Height ranges. This rule adopts the proposed provision that NHTSA will determine which dummy to use to test a particular child restraint based on the restraint manufacturer's recommendations about the height of the children for whom the restraint is intended. However, rather than basing the provision on sitting height, as proposed, this rule uses standing height. Standard 213 currently requires manufacturers to provide recommendations concerning standing height.

All but Ford and UM–CPP concurred with using height as a criterion for choosing the test dummy with which a child restraint will be tested. IIHS and Advocates believed that recommended height ranges should be considered in choosing a dummy, since that would better ensure that the test dummy

represents a child who will be using the restraint. Ford's and UM–CPP's comments, discussed further below, were based on their belief that the standard should not require the labeling of height information.

Notwithstanding general concurrence, commenters disagreed on whether to use sitting height or standing height. Advocates believed that using sitting height rather than standing height ''appears to be appropriate since it provides a more accurate measure of the height of the torso from the hips to the head.'' The commenter believed using sitting height ''should provide a closer match of the child to the child restraint system in order to protect against head excursion and head injury.'' On the other hand, Ford, AAMA, Century, Safeline and Cosco opposed the use of sitting height. Century and Cosco believed sitting height, while perhaps a relevant criterion for determining the suitability of a restraint for a child, would nonetheless be useless information because most parents do not know their child's sitting height. Cosco stated ''there is little correlation between sitting and standing height for manufacturers to give parents any guidance.'' Ford said that wording about how to measure sitting height may reduce the readability of the child seat label.

In lieu of a requirement that manufacturers provide sitting height, many commenters suggested that NHTSA specify a sitting height limit referencing what Century calls ''a readily identifiable body landmark, such as the top of the ears or top of the head.'' Century stated:

> For rear-facing seats the top of the head should not exceed the top of the seat back, and for boosters with or without a seat back, the child should no longer use the seat if the top of the ears are above either the booster seat back or the vehicle seat back.

Ford, a manufacturer of built-in child seats, said it compares anatomical landmarks on the child to physical features on the child restraint. ''It is very easy for a parent to compare shoulder height to the location of a shoulder belt slot or the top of the child's head to the top of the head restraint, and the need for such physical limits is more likely to be understood.'' Ford and UM–CPP recommended that NHTSA not require manufacturers to label child seats with the recommended height of children intended for the seats. These commenters further suggested the test dummy used for Standard 213 compliance testing should be selected solely on the recommended weight range for a particular child restraint.

Based on the comments on the proposal and other information, NHTSA reaches the following conclusions. Standard 213 currently requires manufacturers to label each child restraint with recommendations for the maximum height of children who can safely occupy the system. S5.5.2(f), S5.5.4(f). The purpose of the requirement is to help ensure the proper fit of restraint to child. The information helps consumers purchase an appropriate child restraint. Information about the suitability of a restraint for children of certain heights serves a useful purpose.

On the other hand, NHTSA is mindful that consumers may not know the sitting height of their child as well as they know standing height. The latter is routinely measured and provided to parents during the child's medical examinations. Because standing height is more familiar to parents, this rule specifies recommended standing height, rather than sitting height, to be on the label. Since requiring standing height recommendations to be labeled is a current requirement of Standard 213, this rule maintains the status quo. The agency is unconvinced of a need to change it.

This rule provides for using the manufacturer's height recommendations, in addition to the manufacturer's weight recommendation, to select the test dummies used in Standard 213's compliance test. The NPRM explained the basis for this provision. If height were not a factor,

> It might be possible for a restraint to be tested with a dummy or dummies insufficiently representative of the range of children recommended for the restraint. This could occur if a manufacturer were to recommend inconsistent mass and height ranges. A manufacturer could create an inconsistency by recommending a height range that corresponds to children who are of greater mass (weight) than the masses expressly recommended by the manufacturer for the restraint.
>
> For instance, suppose an infant restraint were recommended for children with masses not more than 4 kilograms (approximately 9 pounds) and a sitting height of up to 475 mm. Although the use of both the newborn and 9-month-old dummies would be more representative of the users of the restraint, only the newborn dummy would be used if dummy selection were based solely on the mass recommendation. However, according to a report by the University of Michigan on ''Physical Characteristics of Children as Related to Death and Injury for Consumer Product Safety Design,'' Report No. PB–242–221, of children with masses of 4 kilograms, those in the 95th percentile have a sitting height of approximately 450 mm. Since the restraint is recommended for children with heights greater than the 95th percentile child, NHTSA has tentatively determined that it would be appropriate to test the infant restraint not only with the infant dummy, but also with a test dummy representative of a taller child (i.e., with the 9-month-old dummy).

NHTSA has decided that the following dummies will be used to test a child restraint if any portion of their corresponding standing height ranges falls under the maximum height recommendation of the manufacturer of that restraint:

ADOPTED PROVISIONS

Recommended height of child suitable for the restraint	Dumm(ies) used for compliance test
Not more than 650 mm (650 mm is approximately the height of a 95th percentile newborn male child).	Newborn
More than 650 mm to 850 mm.	Newborn 9-month-old
More than 850 mm to 1100.	9-month-old[1] 3-yr-old
More than 1100 mm .	6-yr-old

[1] This dummy is not to be used to test booster seats.

Century stated:

> While we agree that it makes sense to establish height limits that correspond to weight limits to prevent a manufacturer from inaccurately representing the usage range for a particular restraint, we do not agree with combining mean values for weight with 95th percentile values for height. This conflict of information on a label could lead a consumer to the incorrect assumption that even though their child weighs more than the weight listed but is less than the height, that it is still all right to use the seat.

In response to Century, NHTSA is not requiring manufacturers to label their restraints as suitable for children in the 95th percentile for height. Rather, the rule would simply permit NHTSA to use a manufacturer's height recommendation as a basis for choosing a test dummy. Manufacturers have wide latitude in recommending the reasonable height ranges they think are appropriate for their restraints.

A number of commenters suggested it would be worthwhile to label a restraint with information using ''anatomical landmarks'' on the child (e.g., top of the ears) so parents can determine when their children have outgrown a particular child restraint. Manufacturers who want to provide such information are free to do so. However, the agency will not require such information to be labeled, for lack of need for such a requirement. See, denial of *Legath*

petition for rulemaking (56 FR 3064; January 38, 1991).

3. Performance Criteria

The effect of specifying additional test dummies in Standard 213 compliance testing is to require child restraints to meet the standard's performance criteria when restraining the new dummies. The level of performance required of a child restraint will generally be unchanged from that required presently of child seats when restraining the six-month-old and three-year-old dummies. That is, the same requirements of the standard for dynamic performance (including the head and chest injury criteria and excursion), force distribution, installation, belts and buckles and flammability will apply to all restraints, regardless of the dummy used to test the restraint system. However, there are two noteworthy exceptions.

A. *Seat back.* The first exception relates to S5.2.1.1, which requires child seats to have a seat back to restrain rearward movement of a child's head. This rule provides that the six-year-old dummy is not used to determine the applicability of or compliance with the seat back requirement. The reason for this decision was provided in the NPRM:

> The determination of whether a seat back is required on a child restraint is based on the dummy used in the compliance testing of the restraint. A child restraint need not have a seat back if a specified point on the dummy's head (approximately located at the top of the dummy's ears) is below the top of the standard seat assembly to which the restraint is attached for compliance testing. (S5.2.1.2) Booster seats are currently tested with the 3-year-old dummy, which sits low enough on the standard seat assembly that the point on the dummy's head is not above the top of the seat assembly. Since that dummy is used, booster seats need not have seat backs. If the 6-year-old dummy were to be incorporated into Standard 213 and if S5.2.1 were to remain unchanged, the impact on booster seats could be substantial. Most, if not all, booster seats (and perhaps other types of child seats) might have to be redesigned to have a seat back. This is because the sitting height of the 6-year-old dummy is higher than that of the 3-year-old. As a result, the critical point on the head of the 6-year-old dummy is likely to be above the top of the seat assembly. 59 FR at 12229.

NHTSA was concerned that the additional costs associated with redesigning booster seats to add a seat back were not justified from a safety standpoint. The agency did not know of real world crash data that indicate a problem with head or neck injuries in rear impact crashes.

Some commenters addressed this proposal. Advocates, IIHS, and SafetyBeltSafe supported it, with caveats. The following text is from Advocates' comment:

> Advocates believes that head restraint is essential in both frontal and especially rear-end collisions. Child restraint systems that do not provide head support present a safety problem and expose children to the risk of head and neck injuries. At the same time, we understand the concern that requiring backs on booster seats would significantly alter the design, cost, and utility of booster seats. A seat back requirement might reduce the affordability, convenience, and use rate of booster seats. Since it is safer, as a general proposition, to have children in properly secured restraint systems than not, Advocates is not recommending that booster seats be required to have backs.

The three commenters suggested a better approach than requiring boosters to have seat backs would be to have improved head restraints in the rear seating position of vehicles.

Transport Canada opposed the proposal. That commenter believed that six-year-old children are just as likely to sustain neck injuries as three-year-olds, so the six-year-old dummy should be used for the seat back requirement. Transport Canada believed no additional costs of redesign would be incurred if manufacturers restrict the use of boosters to children whose mass is less than that which would require testing with the six-year-old dummy (i.e., under this rule, to children with mass less than 18 kg (40 lb).

NHTSA does not agree with Transport Canada. The data base on neck injuries to small children is very limited. Data indicate that the number and severity of neck injuries to children is relatively small. Extrapolating data for 1992 from the state of Indiana to a national basis results in an estimated 2,666 neck injuries in rear impacts, and 8,933 neck injuries in all impacts for children under nine years of age. The injury was coded as a ''complaint of pain'' in 98 percent of the cases. For rear impacts, whiplash is the most common injury (AIS 1). Further, the commenter's suggestion that boosters could be restricted to children with masses less than 18 kg (40 lb) would impact greatly on the current manufacture and sale of boosters, since virtually all boosters are currently recommended for children with a mass of 18 kg or more. That impact does not appear offset by a commensurate safety benefit. Moreover, NHTSA recommends that children should be kept in convertible or toddler seats as long as they will fit, before a booster seat is used. Transport Canada's suggestion could result in manufacturers recommending their boosters for children under 18 kg (40 lbs). Another result could be for parents to choose, for their child, a vehicle belt system over a booster seat when the child reaches 18 kg. Both results would be contrary to safety.

With regard to the suggestion of Advocates, IIHS and SafetyBeltSafe to require head restraints in the rear seating positions of passenger vehicles, the adoption of such a requirement is outside the scope of this rulemaking. The agency notes that the issue was addressed in NHTSA's 1989 rule requiring head restraints in light trucks and vans. 54 FR 39183. Several manufacturers have voluntarily provided head restraints in rear seating positions of their vehicles. Also, after Standard 213 was amended to allow the manufacture and sale of belt-positioning booster seats in July 1994, some child restraint manufacturers have incorporated head restraints into child restraints (e.g., Century's Breverra belt-positioning seat).

B. *Buckle release.* The second exception to the generally unchanged performance criteria relates to S5.4.3.5(b), a requirement for post-impact buckle force release. Currently, S5.4.3.5(b) requires each child seat belt buckle to release when a force of not more than 16 pounds is applied, while tension (simulating a child restrained in the child seat) is applied to the buckle. Tension is applied because a child in the seat could impose a load on the belt buckle, which increases the difficulty of releasing it. The test procedures for this requirement (S6.2) specify that the applied tension is 20 pounds in the case of a system tested with a 6-month-old dummy and 45 pounds in the case of a system tested with a 3-year-old dummy. In both cases, the force level is based on the heaviest children who are likely to use the child restraint. NHTSA proposed to amend S6.2 so that the tension would be 50 newtons (N) when the system is tested with a newborn dummy, 90 N for tests with a 9-month-old dummy, 200 N for tests with a 3-year-old dummy, and 270 N for tests with a 6-year-old dummy. This rule adopts the force levels (50 N, 90 N, 200 N and 270 N) proposed in the NPRM. However, in response to Safeline, this rule limits the applicability of the requirement, such that for any child seat orientation (forward-, side- or rear-facing), only the largest of the dummies will be used to test conformance with the requirement. For example, if a child seat is recommended for a range of children such that it is subject to dynamic testing in the forward-facing mode with both the three-year-old and six-year-old dummies, only the latter dummy will be used for testing the

buckle force release requirement. The larger the dummy used for the test, the more difficult it is for a restraint to meet the requirement. The smaller of two (or more) dummies therefore need not be used, since no useful information will be gained.

C. *Head and chest forces.* This rule requires child seats to limit the accelerations to 1,000 for the Head Injury Criterion (HIC) and 60 g's for the chest. The instrumented six-year-old child dummy will be able to measure accelerations on the dummy head and chest when the dummy is used in the testing of child restraints. These limits are the same as those currently used in Standard 213 for tests with the instrumented three-year-old child dummy. AAMA and UM–CPP referred to the use of HIC in Standard 208, ''Occupant Crash Protection,'' and suggested that the agency calculate HIC in Standard 213 tests in the same manner it is calculated in Standard 208 tests. AAMA stated,

> Although the agency has adopted a 36 ms limit on the HIC calculation for Standard 208 testing, the HIC interval for Standard 213 testing is unstated. AAMA believes that use of a 15 ms limit on the HIC interval would result in a test criterion that is more representative of head injury risk for both the Subpart C [3-year-old] and Subpart I [6-year-old] dummies.

In response to this comment, the agency notes that the commenters are correct in saying that Standards 208 and 213 calculate HIC differently. Standard 208 specifies a 36 ms limit for the time interval used to calculate HIC (S6.1.2), while Standard 213 specifies that any two moments may be used for the HIC calculation S5.1.2(a)). In Standard 213 compliance tests, the HIC value can and does differ according to the time interval that is used to calculate HIC. NHTSA has used various time intervals for the Standard 213 HIC calculation, including but not limited to 36 ms.

At this time, the agency does not have sufficient information justifying limiting the time interval to any interval, including 36 ms. After receiving AAMA's comment, NHTSA evaluated Standard 213 sled test data to determine how the HIC calculation is affected by limiting the time interval. The evaluation showed that HIC values were generally lower (in few cases, equal) when the time interval was limited to 36 ms, compared to when unlimited. Limiting the time interval could therefore make it easier for a child restraint to pass the HIC requirement, resulting in a lower level of safety protection for the child occupant.

With regard to limiting the HIC calculation to a 15 ms interval, the agency rejected a 15 ms limit in Standard 208 on the basis that it would effectively allow higher head accelerations, and thus might not ensure protection for a wide range of the population. (51 FR 37031; October 17, 1986.) NHTSA rejects a 15 ms limit in Standard 213 for the same reasons given when this matter was evaluated with regard to Standard 208.

NHTSA further notes that child restraint manufacturers have been successful at designing and manufacturing effective child restraint systems without a limit on the time interval for the HIC calculation. Changing the HIC criterion without information on the consequences of such a change is unwarranted.

4. Other Amendments

This rule adopts three amendments unrelated to the addition of new sizes of dummies to Standard 213. Two of the amendments clarify the standard's excursion requirements. The excursion requirement for built-in child restraints (S5.1.3.1(b)) currently prohibits the dummy's knee pivot from passing through a plane that is a specified distance ''forward of the hinge point of the specific vehicle seat into which the system is built.'' Chrysler suggested (docket 74–09–N24–001) that NHTSA amend the reference point because the ''hinge point of the specific vehicle seat'' cannot be readily determined for most vehicle seats. This is because most vehicle seats into which a built-in child restraint is fabricated do not have hinges for their backs, or are configured so that the hinge point is not easily seen during dynamic testing.

NHTSA proposed to address this concern by referencing the H-point on the seat. That point is used as a reference point in S11 of Standard 208, ''Occupant Crash Protection,'' and in S4.3 of Standard 210, ''Seat Belt Assembly Anchorages.'' Chrysler had suggested use of the H-point reference. The H-point of a specific vehicle seating position is determined by using equipment and procedures specified in the Society of Automotive Engineers (SAE) recommended practice SAE J826 (May 1987), ''Devices for Use in Defining and Measuring Vehicle Seating Accommodation.'' The H-point is identified either during the seat's design by means of a two-dimensional drafting template, or after the vehicle is completely manufactured, by means of a three-dimensional device. The H-point is located at approximately the same location as the ''hinge point'' on a vehicle seat.

NHTSA received comments on this proposal from Transport Canada, AAMA (of which Chrysler is a member), Safeline, Century and UM-CPP. Some commenters expressed concern that using the H-point as a reference still results in ambiguity in the test procedure since the H-point varies from vehicle to vehicle, and is not easily seen during dynamic testing. All commenters suggested adopting Transport Canada's approach to measuring knee excursion for built-in restraints. That approach limits the forward knee movement to a maximum of 305 mm (12 inches) at any time during the test from the initial knee position of the dummy. Transport Canada stated, ''Our regulatory development testing has proved that this approach produces satisfactory results.''

NHTSA has reviewed the comments and agrees to base the knee excursion limit for built-in seats on the approach of Transport Canada. Maximum knee translation is limited in terms of the initial position the knee itself. NHTSA believes this is easier than measuring knee displacement vis-a-vis the ''hinge point'' or H-point of the vehicle seat. Knee excursion is currently measured using a point on the ''knee pivot'' that is easily defined on the test dummy. The knee pivot point is easily observed during the dynamic test. This rule limits the longitudinal horizontal movement of the knee pivot point, from the initial position of the knee pivot, to a maximum of 305 mm (12 inches). The 12 inch value is equivalent to the level of performance currently required by Standard 213 (i.e., 914 mm (36 inches) measured from the hinge point of the seat assembly).

The other clarifying amendment relates to the excursion requirement for rear-facing child restraints (S5.1.3.2). S5.1.3.2 currently states that ''no portion of the target point on either side of the dummy's head'' shall pass through an area on the child restraint. The quoted language is revised to remove the reference to a ''portion'' of the target point. The use of ''portion'' is incorrect since the target point is dimensionless.

The third amendment relates to the requirement in the standard that limits the force that may be imposed on a child by the vehicle belt used to anchor the child seat to the vehicle (S5.4.3.2). S5.4.3.2 currently specifies, for add-on child restraints (another provision specifies comparable requirements for built-in restraints):

> Each belt that is part of a child restraint system and that is designed to restrain a child using the system and to attach the system to the vehicle shall, when tested in accordance with [the dynamic test of] S6.1, impose no loads on the child that result from

the mass of the system, or * * * [from] the mass of the seat back of the standard seat assembly. * * *

The NPRM proposed to expand S5.4.3.2 to also apply it to each Type I and the lap portion of a Type II vehicle belt that is used to attach the child seat to the vehicle. These belts, which anchor the child seat to the vehicle, function to absorb the forces of the crash into the frame of the vehicle. NHTSA proposed that these belts not be permitted to transfer those crash forces to the occupant child.

The agency received many comments on this proposal. SafetyBeltSafe and Advocates supported it. They believed the standard should prohibit a vehicle lap belt used to secure a child restraint to the vehicle from transferring any crash forces to the child. Safeline, Ford, Century, and UM–CPP expressed concerns about the proposal. Safeline believed the proposal is ambiguous, since it does not specify how the prohibited loading would be measured. Ford, Century and UM–CPP shared concerns about the effect of the proposal on belt-positioning seats (boosters designed for use with a vehicle's lap/shoulder belt system) with seat backs. UM–CPP stated that any such booster will load the child into the lap belt, as well as into the shoulder belt. Moreover, the commenter said it does ''not think it is practical to measure the load imposed on the dummy.'' UM–CPP and Century suggested retaining the proposal but excluding from the requirement any restraint with a mass of less than 4 kg (weight of less than 8.8 lbs). These commenters indicated the 4 kg limit is consistent with requirements in Europe and the current U.S. market. Century stated, ''There is field experience with numerous designs in Europe, and testing we have done with our Breverra [which weighs less than 3 kg] indicates no increases in any measurable injury criteria resulting from belt loads.''

Based on the comments and other information, NHTSA amends S5.4.3.2 as follows. NHTSA agrees with the commenters that, as proposed, S5.4.3.2 would prohibit belt-positioning seats with a back, since the mass of those systems contributes to the loading of the vehicle seat belt on the restrained child during a crash. That effect was unintended by the agency. NHTSA further believes that totally avoiding a load on the child, as proposed, is very difficult, if not impossible to achieve with present designs of belt-positioning seats. The proposed requirement might be impracticable as long as the lap portion of a Type II vehicle belt is used to attach the system to the vehicle and restrain the child. NHTSA does not believe there is a sufficient safety problem to warrant prohibiting current designs of belt-positioning seats with backs. There are no data showing injuries caused by seat back loads imposed on a child. On the other hand, limits should be established to keep in check the potential for injury due to overloading a child occupant. Overloading could occur from a massive child seat back. For this reason, this rule limits the loads imposed on a child by prohibiting any loads except those resulting from a child seat with a mass less than 4 kg. No data have emerged from the field showing that a child seat with a mass less than 4 kg imposes harmful loads on a child. The effect of this requirement will likely keep the masses of belt-positioning seats at less than 4 kg.

In the rule that amended Standard 213 to permit the manufacture of belt-positioning seats, NHTSA decided against specifying limits on seat back loading, due to a lack of data indicating a safety problem. At the time of that decision, the agency did not consider that a lap belt portion of a Type II belt system could transfer crash forces to a child from the back of a belt-positioning booster seat. Now that the agency has considered this issue in the context of S5.4.3.2 of Standard 213, NHTSA has decided that a limit on the mass of the booster seat back is warranted.

Belt-positioning devices. The NPRM sought information about a particular type of child restraining device that appears to be proliferating. These devices are designed to be attached to a vehicle Type II belt system to improve the fit of the system on children, and in some cases, on small adults. The agency sought information on whether Standard 213 should be applied to these devices, and if so, which of the standard's requirements would be appropriate for those devices.

Six commenters responded to this issue. All believed the devices need to be subjected to safety standards to ensure that they provide occupants with proper safety protection. UM–CPP stated that the primary problem with these devices is that there are ''no formal test procedures and criteria for determining whether a given deflector is effective and/or better than nothing for certain vehicle belt/occupant combinations.'' IIHS strongly urged that these restraint devices to improve belt fit, be subject to Standard 213, as are booster seats. It said these devices are targeted to those children who have outgrown toddler seats but are too small to be appropriately restrained by adult seatbelts. Redlog, a manufacturer of belt adjustment devices, recommended that these devices be included in the definition of child restraints in FMVSS No. 213. Redlog recommended creating a sub-category within the existing definition of child restraints to accommodate these devices. It concluded by saying that dynamic crash testing and labeling for appropriate usage are essential requirements. Advocates expressed its concern with the safety of these devices and said the agency has an obligation to test them to determine if they interfere with the safety performance of the restraint system. SafetyBeltSafe said that ''standards are essential for the new category of product which purports to reconfigure the shoulder lap belt to respond to the differing seated heights of passengers and drivers in vehicles.'' It, however, said at this time, it does not recommend use of such products if the passenger is able to use a belt-positioning booster. CompUTence said that FMVSS 213 should address all child and small adult safety devices relating to occupant restraint and that, currently, these devices are sold without knowledge of whether they provide the safety claimed by their manufacturers.

While commenters supported regulating the aftermarket devices, the agency is not prepared to undertake rulemaking at this time. NHTSA needs to better assess the safety benefits of such rulemaking, and the feasibility of a test procedure and practicability of performance requirements. The agency will be continuing its efforts to learn more about the restraining devices.

5. Leadtime

This rule has one effective date for add-on child restraints and another for built-in child restraints. For add-on systems, this rule is effective in 180 days, as proposed. No comment was received on leadtime for add-on restraints.

For built-in systems, this rule is effective on September 1, 1996. Ford and AAMA commented on leadtime for built-in restraints. Ford requested a September 1, 1996 effective date. It said the proposed 180-day leadtime would not provide enough time for it to test all its built-in child seats to the adopted requirements and make any design changes that may be needed. It also said the proposed leadtime would not provide enough time to modify the labeling of its built-in restraints, or to change the vehicle ''owners guides'' of the vehicles equipped with built-in systems. Ford stated that changes to owners guides are timed to precede the beginning of new model year production, and are usually printed in

June or July. NHTSA has determined that a September 1, 1996 effective date for built-in restraints gives motor vehicle manufacturers sufficient leadtime to both evaluate their products and make any necessary changes to them, and prepare the labels and owners manuals for the new model vehicles without unnecessary burdens. For the reasons given above, there is good cause shown that the September 1996 effective date is in the public interest.

III. Rulemaking Analyses and Notices

a. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' The agency has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures, and has determined that it is not ''significant'' under them. NHTSA has prepared a final regulatory evaluation for this action which discusses its potential costs, benefits and other impacts. A copy of that evaluation has been placed in the docket for this rulemaking action. Interested persons may obtain copies of the evaluation by writing to the docket section at the address provided at the beginning of this document.

To briefly summarize the evaluation, the cost per test is estimated to be $1,337. There are approximately 47 different models of child restraints on the market with an estimated total of 185 adjustment positions. Since each restraint would be subject to testing with two dummies rather than one, the incremental testing cost is one dummy per restraint position. Total cost for all manufacturers is estimated to be $247,345. Redesign costs have not been estimated.

The agency cannot quantify the benefits of this rulemaking. However, NHTSA believes that benefits will accrue by virtue of upgraded test procedures that better ensure that child restraints adequately restrain and protect the children recommended for a restraint.

b. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. The agency knows of 13 manufacturers of child restraints, seven of which NHTSA considers to be small businesses (including Kolcraft, which with an estimated 500 employees, is on the borderline of being a small business). This number does not constitute a substantial number of small entities. Regardless of this number, NHTSA does not believe this rule will have a significant impact on small businesses. This rule may have an impact on the shield-type booster seat market, in that a manufacturer may have to redesign its seat if it cannot pass the standard's test with the new six-year-old dummy. However, the agency does not know of any such booster at this time. This rule increases the testing that NHTSA conducts of child restraints, which in turn increases the certification responsibilities of manufacturers. However, the agency does not believe such an increase constitutes a significant economic impact on small entities, because these businesses currently must certify their products to the dynamic test of Standard 213. That is, the products of these manufacturers already are subject to dynamic testing using child test dummies. The effect of this rule on most child seats is to subject them to testing with an additional dummy. Assuming there are shield boosters that could not be certified as meeting Standard 213 when tested with an additional dummy, small manufacturers producing those boosters would have to redesign those restraint systems to meet the standard. However, those manufacturers could decide to replace nonconforming shield boosters with belt-positioning boosters (which use a vehicle's Type II belts system), which are easier to certify to Standard 213's requirements than shield boosters. NHTSA expects that all manufacturers will enter the belt-positioning booster market. Some manufacturers might also relabel their restraints as being suitable for a smaller weight range of children, to avoid having their restraints tested with a particular test dummy that the restraint cannot restrain (e.g., the 6-year-old child dummy).

Small organizations and governmental jurisdictions might be affected by this rule if these entities procure child restraint systems for programs such as loaner programs. While the cost of child restraints could increase, the agency believes the cost increase would be minimal. Further, available information indicates that only a small percentage of loaner programs carry booster seats, the type of child restraint system most likely to be affected by this rule. Thus, loaner program procurements will not be significantly affected by today's rule.

c. Executive Order 12612 (Federalism)

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

d. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

e. Executive Order 12778 (Civil Justice Reform)

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA amends 49 CFR Part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

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

2. Section 571.213 is amended by—

a. Revising S5, the introductory paragraph of S5.1.2, S5.1.3.1(a) and (b), S5.1.3.2, the introductory paragraph of S5.2.1.2, S5.2.2.2(b), S5.2.3.1, S5.4.3.2, the introductory text of S5.4.3.3 and of S5.4.3.3(c), the introductory text of S5.4.3.5, S5.4.3.5(a) and (b), S5.5.2(f), S5.5.5(f), and S6 through S8.2.6, and

b. Adding S9, S9.1, S9.2, S9.3, S10, S10.1, S10.2, S10.2.1 and S10.2.2, to read as follows:

§ 571.213 Standard No. 213, Child Restraint Systems.

* * * * *

S5. *Requirements.* (a) Each motor vehicle with a built-in child restraint system shall meet the requirements in this section when, as specified, tested in accordance with S6.1 and this paragraph.

(b) Each child restraint system manufactured for use in motor vehicles shall meet the requirements in this section when, as specified, tested in accordance with S6.1 and this paragraph. Each add-on system shall meet the requirements at each of the restraint's seat back angle adjustment positions and restraint belt routing positions, when the restraint is oriented in the direction recommended by the manufacturer (e.g., forward, rearward or laterally) pursuant to S5.6, and tested with the test dummy specified in S7.

(c) Each child restraint system manufactured for use in aircraft shall meet the requirements in this section and the additional requirements in S8.

* * * * *

S5.1.2 *Injury criteria.* When tested in accordance with S6.1, each child restraint system that, in accordance with S5.5.2(f), is recommended for use by children whose masses are more than 10 kilograms (kg) shall—

* * * * *

S5.1.3.1 * * *

(a) In the case of an add-on child restraint system, no portion of the test dummy's head shall pass through a vertical, transverse plane that is 810 mm forward of point Z on the standard seat assembly, measured along the center SORL (as illustrated in figure 1B), and neither knee pivot point shall pass through a vertical, transverse plane that is 915 mm forward of point Z on the standard seat assembly, measured along the center SORL.

(b) In the case of a built-in child restraint system, neither knee pivot point shall, at any time during the dynamic test, pass through a vertical, transverse plane that is 305 mm forward of the initial pre-test position of the respective knee pivot point, measured along a horizontal line that passes through the knee pivot point and is parallel to the vertical plane that passes through the vehicle's longitunal centerline.

S5.1.3.2 *Rear-facing child restraint systems.* In the case of each rear-facing child restraint system, all portions of the test dummy's torso shall be retained within the system and neither of the target points on either side of the dummy's head and on the transverse axis passing through the center of mass of the dummy's head and perpendicular to the head's midsagittal plane, shall pass through the transverse orthogonal planes whose intersection contains the forward-most and top-most points on the child restraint system surfaces (illustrated in Figure 1C).

* * * * *

S5.2.1.2 The applicability of the requirements of S5.2.1.1 to a front-facing child restraint, and the conformance of any child restraint other than a car bed to those requirements is determined using the largest of the test dummies specified in S7.1 for use in testing that restraint; provided, that the 6-year-old dummy described in Subpart I of Part 572 of this title is not used to determine the applicability of or compliance with S5.2.1.1. A front-facing child restraint system is not required to comply with S5.2.1.1 if the target point on either side of the dummy's head is below a horizontal plane tangent to the top of—

* * * * *

S5.2.2.2 * * *

(b) Passing through any portion of the dummy, except for surfaces which restrain the dummy when the system is tested in accordance with S6.1.2(a)(2), so that the child restraint system shall conform to the requirements of S5.1.2 and S5.1.3.1.

* * * * *

S5.2.3.1 Each child restraint system, other than a child harness, which is recommended under S5.5.2(f) for children whose masses are less than 10 kg, shall comply with S5.2.3.2.

* * * * *

S5.4.3.2 *Direct restraint.* Except for a child restraint system whose mass is less than 4 kg, each belt that is part of a child restraint system and that is designed to restrain a child using the system and to attach the system to the vehicle, and each Type I and lap portion of a Type II vehicle belt that is used to attach the system to the vehicle shall, when tested in accordance with S6.1, impose no loads on the child that result from the mass of the system, or

(a) In the case of an add-on child restraint system, from the mass of the seat back of the standard seat assembly specified in S6.1, or

(b) In the case of a built-in child restraint system, from the mass of any part of the vehicle into which the child restraint system is built.

S5.4.3.3 *Seating systems.* Except for child restraint systems subject to S5.4.3.4, each child restraint system that is designed for use by a child in a seated position and that has belts designed to restrain the child, shall, with the test dummy specified in S7 positioned in the system in accordance with S10 provide:

* * * * *

(c) In the case of each seating system recommended for children whose masses are more than 10 kg, crotch restraint in the form of:

* * * * *

S5.4.3.5 *Buckle release.* Any buckle in a child restraint system belt assembly designed to restrain a child using the system shall:

(a) When tested in accordance with S6.2.1 prior to the dynamic test of S6.1, not release when a force of less than 40 newtons (N) is applied and shall release when a force of not more than 62 N is applied;

(b) After the dynamic test of S6.1, when tested in accordance with the appropriate sections of S6.2, release when a force of not more than 71 N is applied, provided, however, that the conformance of any child restraint to this requirement is determined using the largest of the test dummies specified in S7 for use in testing that restraint when the restraint is facing forward, rearward, and/or laterally;

* * * * *

S5.5.2 * * *

(f) One of the following statements, inserting the manufacturer's recommendations for the maximum mass and height of children who can safely occupy the system, except that booster seats shall not be recommended for children whose masses are less than 13.6 kg:

(1) This infant restraint is designed for use by children who weigh _____ pounds (mass _____ kg) or less and whose height is (*insert values in English and metric units*); or

(2) This child restraint is designed for use only by children who weigh between _____ and _____ pounds (*insert metric values*) and whose height is (*insert values in English and metric units*) and who are capable of sitting upright alone; or

(3) This child restraint is designed for use only by children who weigh between _____ and _____ pounds (*insert metric values*) and whose height is (*insert values in English and metric units*).

* * * * *

S5.5.5 * * *

(f) One of the following statements, inserting the manufacturer's recommendations for the maximum mass and height of children who can safely occupy the system, except that booster seats shall not be recommended for children whose masses are less than 13.6 kg:

(1) This infant restraint is designed for use by children who weigh _____ pounds (mass _____ kg) or less and whose height is (*insert values in English and metric units*); or

(2) This child restraint is designed for use only by children who weigh between _____ and _____ pounds (*insert metric values*) and whose height is (*insert values in English and metric units*) and who are capable of sitting upright alone; or

(3) This child restraint is designed for use only by children who weigh between _____ and _____ pounds (*insert metric values*) and whose sitting height is (*insert values in English and metric units*).

* * * * *

S6. *Test conditions and procedures.*

S6.1 *Dynamic systems test for child restraint systems.*

The test conditions described in S6.1.1 apply to the dynamic systems test. The test procedure for the dynamic systems test is specified in S6.1.2. The test dummy specified in S7 is placed in the test specimen (child restraint), clothed as described in S9 and positioned according to S10.

S6.1.1 *Test conditions.*

(a) Test devices

(1) The test device for add-on restraint systems is a standard seat assembly consisting of a simulated vehicle bench seat, with three seating positions, which is described in Drawing Package SAS–100–1000 (consisting of drawings and a bill of materials) with addendum A, Seat Base Weldment, dated July 1, 1993 (incorporated by reference; see § 571.5). The assembly is mounted on a dynamic test platform so that the center SORL of the seat is parallel to the direction of the test platform travel and so that movement between the base of the assembly and the platform is prevented.

(2) The test device for built-in child restraint systems is either the specific vehicle shell or the specific vehicle.

(i) *Specific vehicle shell.*

(A) The specific vehicle shell, if selected for testing, is mounted on a dynamic test platform so that the longitudinal center line of the shell is parallel to the direction of the test platform travel and so that movement between the base of the shell and the platform is prevented. Adjustable seats are in the adjustment position midway between the forwardmost and rearmost positions, and if separately adjustable in a vertical direction, are at the lowest position. If an adjustment position does not exist midway between the forwardmost and rearmost position, the closest adjustment position to the rear of the midpoint is used. Adjustable seat backs are in the manufacturer's nominal design riding position. If such a position is not specified, the seat back is positioned so that the longitudinal center line of the child test dummy's neck is vertical, and if an instrumented test dummy is used, the accelerometer surfaces in the dummy's head and thorax, as positioned in the vehicle, are horizontal. If the vehicle seat is equipped with adjustable head restraints, each is adjusted to its highest adjustment position.

(B) The platform is instrumented with an accelerometer and data processing system having a frequency response of 60 Hz channel class as specified in Society of Automotive Engineers Recommended Practice J211 JUN80 ''Instrumentation for Impact Tests.'' The accelerometer sensitive axis is parallel to the direction of test platform travel.

(ii) *Specific vehicle.* For built-in child restraint systems, an alternate test device is the specific vehicle into which the built-in system is fabricated. The following test conditions apply to this alternate test device.

(A) The vehicle is loaded to its unloaded vehicle weight plus its rated cargo and luggage capacity weight, secured in the luggage area, plus the appropriate child test dummy and, at the vehicle manufacturer's option, an anthropomorphic test dummy which conforms to the requirements of Subpart B or Subpart E of Part 572 of this title for a 50th percentile adult male dummy placed in the front outboard seating position. If the built-in child restraint system is installed at one of the seating positions otherwise requiring the placement of a Part 572 test dummy, then in the frontal barrier crash specified in (c), the appropriate child test dummy shall be substituted for the Part 572 adult dummy, but only at that seating position. The fuel tank is filled to any level from 90 to 95 percent of capacity.

(B) Adjustable seats are in the adjustment position midway between the forward-most and rearmost positions, and if separately adjustable in a vehicle direction, are at the lowest position. If an adjustment position does not exist midway between the forward-most and rearmost positions, the closest adjustment position to the rear of the midpoint is used.

(C) Adjustable seat backs are in the manufacturer's nominal design riding position. If a nominal position is not specified, the seat back is positioned so that the longitudinal center line of the child test dummy's neck is vertical, and if an anthropomorphic test dummy is used, the accelerometer surfaces in the test dummy's head and thorax, as positioned in the vehicle, are horizontal. If the vehicle is equipped with adjustable head restraints, each is adjusted to its highest adjustment position.

(D) Movable vehicle windows and vents are, at the manufacturer's option, placed in the fully closed position.

(E) Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

(F) Doors are fully closed and latched but not locked.

(G) All instrumentation and data reduction is in conformance with SAE J211 JUN80.

(b) The tests are frontal barrier impact simulations of the test platform or frontal barrier crashes of the specific vehicles as specified in S5.1 of § 571.208 and for:

(1) Test Configuration I, are at a velocity change of 48 km/h with the acceleration of the test platform entirely within the curve shown in Figure 2, or for the specific vehicle test with the deceleration produced in a 48 km/h frontal barrier crash.

(2) Test Configuration II, are set at a velocity change of 32 km/h with the acceleration of the test platform entirely within the curve shown in Figure 3, or for the specific vehicle test, with the deceleration produced in a 32 km/h frontal barrier crash.

(c) Attached to the seat belt anchorage points provided on the standard seat assembly (illustrated in Figures 1A and 1B) are Type I seat belt assemblies in the case of add-on child restraint systems other than belt-positioning seats, or Type II seat belt assemblies in the case of belt-positioning seats. These seat belt assemblies meet the requirements of Standard No. 209 (§ 571.209) and have webbing with a width of not more than 50 mm, and are attached to the anchorage points without the use of retractors or reels of any kind.

(d) Performance tests under S6.1 are conducted at any ambient temperature from 19° to 26° C and at any relative humidity from 10 percent to 70 percent.

(e) In the case of add-on child restraint systems, the restraint shall meet the requirements of S5 at each of its seat back angle adjustment positions and restraint belt routing positions, when the restraint is oriented in the direction recommended by the manufacturer (e.g., forward, rearward or laterally) pursuant to S5.6, and tested with the test dummy specified in S7.

S6.1.2 *Dynamic test procedure.*

(a) Activate the built-in child restraint or attach the add-on child restraint to the seat assembly as described below:

(1) *Test configuration I.* (i) In the case of each add-on child restraint system other than a belt-positioning seat, a child harness, a backless child restraint system with a top anchorage strap, or a restraint designed for use by physically handicapped children, install the add-on child restraint system at the center seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1, except that the add-on restraint shall be secured to the standard vehicle seat using only the standard vehicle lap belt. A child harness, a backless child restraint system with a top anchorage strap, or a restraint designed for use by physically handicapped children shall be installed at the center seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1. An add-on belt-positioning seat shall be installed at either outboard seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.1, except that the belt-positioning seat shall be secured to the standard vehicle seat using only the standard vehicle lap and shoulder belt.

(ii) In the case of each built-in child restraint system, activate the restraint in the specific vehicle shell or the specific vehicle, in accordance with the manufacturer's instructions provided in accordance with S5.6.2.

(2) *Test configuration II.* (i) In the case of each add-on child restraint system which is equipped with a fixed or movable surface described in S5.2.2.2, or a backless child restraint system with a top anchorage strap, install the add-on child restraint system at the center seating position of the standard seat assembly using only the standard seat lap belt to secure the system to the standard seat.

(ii) In the case of each built-in child restraint system which is equipped with a fixed or movable surface described in S5.2.2.2, or a built-in booster seat with a top anchorage strap, activate the system in the specific vehicle shell or the specific vehicle in accordance with the manufacturer's instructions provided in accordance with S5.6.2.

(b) Tighten all belts used to restrain an add-on child restraint system to the standard seat assembly and all belts used to directly restrain the dummy to the add-on or built-in child restraint according to the following:

(1) Tighten all Type I belt systems and any provided additional anchorage belt (tether), that are used to attach an add-on child restraint to the standard seat assembly to a tension of not less than 53.5 N and not more than 67 N, as measured by a load cell used on the webbing portion of the belt.

(2) Tighten the lap portion of Type II belt systems used to attach an add-on child restrain to the standard seat assembly to a tension of not less than 53.5 N and not more than 67 N, as measured by a load cell used on the webbing portion of the belt.

(3) Tighten the shoulder portion of Type II belt system used to directly restrain the dummy in add-on and built-in child restraint systems to a tension of not less than 9 N and not more than 18 N, as measured by a load cell used on the webbing portion of the belt.

(c) Place in the child restraint any dummy specified in S7 for testing systems for use by children of the heights and weights for which the system is recommended in accordance with S5.6.2.

(d) Assemble, clothe, prepare and position the dummy as specified in S7 through S10 and Part 572 of this chapter, as appropriate.

(e) If provided, shoulder (other than the shoulder portion of a Type II vehicle belt system) and pelvic belts that directly restrain the dummy in add-on and built-in systems shall be adjusted as follows:

Tighten the belts until a 9 N force applied (as illustrated in figure 5) to the webbing at the top of each dummy shoulder and to the pelvic webbing 50 mm on either side of the torso midsagittal plane pulls the webbing 7 mm from the dummy.

(f) Accelerate the test platform to simulate frontal impact in accordance with Test Configuration I or II, as appropriate.

(g) Determine conformance with the requirements in S5.1, as appropriate.

S6.2 *Buckle release test procedure.*

The belt assembly buckles used in any child restraint system shall be tested in accordance with S6.2.1 through S6.2.4 inclusive.

S6.2.1 Before conducting the testing specified in S6.1, place the loaded buckle on a hard, flat, horizontal surface. Each belt end of the buckle shall be pre-loaded in the following manner. The anchor end of the buckle shall be loaded with a 9 N force in the direction away from the buckle. In the case of buckles designed to secure a single latch plate, the belt latch plate end of the buckle shall be pre-loaded with a 9 N force in the direction away from the buckle. In the case of buckles designed to secure two or more latch plates, the belt latch plate ends of the buckle shall be loaded equally so that the total load is 9 N, in the direction away from the buckle. For pushbutton-release buckles, the release force shall be applied by a conical surface (cone angle not exceeding 90 degrees). For pushbutton-release mechanisms with a fixed edge (referred to in Figure 7 as ''hinged button''), the release force shall be applied at the centerline of the button, 3 mm away from the movable edge directly opposite the fixed edge, and in the direction that produces maximum releasing effect. For pushbutton-release mechanisms with no fixed edge (referred to in Figure 7 as ''floating button''), the release force shall be applied at the center of the release mechanism in the direction that produces the maximum releasing effect. For all other buckle release mechanisms, the force shall be applied on the centerline of the buckle lever or finger tab in the direction that produces the maximum releasing effect. Measure the force required to release the buckle. Figure 7 illustrates the loading for the different buckles and the point where the release force should be applied, and Figure 8 illustrates the conical surface used to apply the release force to pushbutton-release buckles.

S6.2.2 After completion of the testing specified in S6.1 and before the buckle is unlatched, tie a self-adjusting sling to each wrist and ankle of the test dummy in the manner illustrated in Figure 4, without disturbing the belted dummy and the child restraint system.

S6.2.3 Pull the sling tied to the dummy restrained in the child restraint system and apply a force whose magnitude is: 50 N for a system tested with a newborn dummy; 90 N for a system tested with a 9-month-old dummy; 200 N for a system tested with a 3-year-old dummy; or 270 N for a system tested with a 6-year-old dummy. The force is applied in the manner illustrated in Figure 4 and as follows:

(a) *Add-on Child Restraints.* For an add-on child restraint other than a car bed, apply the specified force by pulling the sling horizontally and parallel to the SORL of the standard seat assembly. For a car bed, apply the force by pulling the sling vertically.

(b) *Built-in Child Restraints.* For a built-in child restraint other than a car bed, apply the force by pulling the sling parallel to the longitudinal center line of the specific vehicle shell or the specific vehicle. In the case of a car bed, apply the force by pulling the sling vertically.

S6.2.4 While applying the force specified in S6.2.3, and using the device shown in Figure 8 for pushbutton-release buckles, apply the release force in the manner and location specified in S6.2.1, for that type of buckle. Measure the force required to release the buckle.

S6.3 *Head impact protection—energy absorbing material test procedure.*

S6.3.1 Prepare and test specimens of the energy absorbing material used to comply with S5.2.3 in accordance with the applicable 25 percent compression-deflection test described in the American Society for Testing and Materials (ASTM) Standard D1056–73, ''Standard Specification for Flexible Cellular Materials—Sponge or Expanded Rubber,'' or D1564–71 ''Standard Method of Testing Flexible Cellular Materials—Slab Urethane Foam'' or D1565–76 ''Standard Specification for Flexible Cellular Materials—Vinyl Chloride Polymer and Copolymer open-cell foams.''

S7 *Test dummies.* (Subparts referenced in this section are of part 572 of this chapter.)

S7.1 Dummy selection.

(a) A child restraint that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass of not greater than 5 kg, or by children in a specified height range that includes any children whose height is not greater than 650 mm, is tested with a newborn test dummy conforming to part 572 subpart K.

(b) A child restraint that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 5 but not greater than 10 kg, or by children in a specified height range that includes any children whose height is greater than 650 mm but not greater than 850 mm, is tested with a newborn test dummy conforming to part 572 subpart K, and a 9-month-old test dummy conforming to part 572 subpart J.

(c) Except for a booster seat, a child restraint that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 10 kg but not greater than 18 kg, or by children in a specified height range that includes any children whose height is greater than 850 mm but not greater than 1100 mm, is tested with a 9-month-old test dummy conforming to part 572 subpart J, and a 3-year-old test dummy conforming to part 572 subpart C and S7.2, provided, however, that the 9-month-old dummy is not used to test a booster seat.

(d) A child restraint that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 18 kg, or by children in a specified height range that includes any children whose height is greater than 1100 mm, is tested with a 3-year-old child test dummy conforming to part 572 subpart C and S7.2, and a 6-year-old child dummy conforming to part 572 subpart I.

(e) A child restraint that meets the criteria in two or more of the preceding paragraphs in S7.1 is tested with each of the test dummies specified in those paragraphs.

S7.2 *Three-year-old dummy head.* Effective September 1, 1993, this dummy is assembled with the head assembly specified in section 572.16(a)(1) of this chapter.

S8 *Requirements, test conditions, and procedures for child restraint systems manufactured for use in aircraft.*

Each child restraint system manufactured for use in both motor vehicles and aircraft must comply with all of the applicable requirements specified in Section S5 and with the additional requirements specified in S8.1 and S8.2.

S8.1 *Installation instructions.* Each child restraint system manufactured for use in aircraft shall be accompanied by printed instructions in English that provide a step-by-step procedure, including diagrams, for installing the system in aircraft passenger seats, securing a child in the system when it is installed in aircraft, and adjusting the system to fit the child.

S8.2 *Inversion test.* When tested in accordance with S8.2.1 through S8.2.5, each child restraint system manufactured for use in aircraft shall meet the requirements of S8.2.1 through S8.2.6. The manufacturer may, at its option, use any seat which is a representative aircraft passenger seat within the meaning of S4. Each system shall meet the requirements at each of the restraint's seat back angle adjustment positions and restraint belt routing positions, when the restraint is oriented in the direction recommended by the manufacturer (e.g., facing forward, rearward or laterally) pursuant to S8.1, and tested with the test dummy specified in S7. If the manufacturer recommendations do not include instructions for orienting the restraint in aircraft when the restraint seat back angle is adjusted to any position, position the restraint on the aircraft seat by following the instructions (provided in accordance with S5.6) for orienting the restraint in motor vehicles.

S8.2.1 A standard seat assembly consisting of a representative aircraft passenger seat shall be positioned and adjusted so that its horizontal and vertical orientation and its seat back angle are the same as shown in Figure 6.

S8.2.2 The child restraint system shall be attached to the representative aircraft passenger seat using, at the manufacturer's option, any Federal Aviation Administration approved aircraft safety belt, according to the restraint manufacturer's instructions for attaching the restraint to an aircraft seat. No supplementary anchorage belts or tether straps may be attached; however, Federal Aviation Administration approved safety belt extensions may be used.

S8.2.3 In accordance with S10, place in the child restraint any dummy specified in S7 for testing systems for use by children of the heights and weights for which the system is recommended in accordance with S5.5 and S8.1.

S8.2.4 If provided, shoulder and pelvic belts that directly restrain the dummy shall be adjusted in accordance with S6.1.2.

S8.2.5 The combination of representative aircraft passenger seat, child restraint, and test dummy shall be rotated forward around a horizontal axis which is contained in the median transverse vertical plane of the seating surface portion of the aircraft seat and is located 25 mm below the bottom of the seat frame, at a speed of 35 to 45 degrees per second, to an angle of 180 degrees. The rotation shall be stopped when it reaches that angle and the seat shall be held in this position for three seconds. The child restraint shall not fall out of the aircraft safety belt nor shall the test dummy fall out of the child restraint at any time during the rotation or the three second period. The specified rate of rotation shall be attained in not less than one half second and not more than one second, and the rotating combination shall be brought to a stop in not less than one half second and not more than one second.

S8.2.6 Repeat the procedures set forth in S8.2.1 through S8.2.4. The combination of the representative aircraft passenger seat, child restraint, and test dummy shall be rotated sideways around a horizontal axis which is contained in the median longitudinal vertical plane of the seating surface portion of the aircraft seat and is located 25 mm below the bottom of the seat frame, at a speed of 35 to 45 degrees per second, to an angle of 180 degrees. The rotation shall be stopped when it reaches that angle and the seat shall be held in this position for three seconds. The child restraint shall not fall out of the aircraft safety belt nor shall the test dummy fall out of the

child restraint at any time during the rotation or the three second period. The specified rate of rotation shall be attained in not less than one half second and not more than one second, and the rotating combination shall be brought to a stop in not less than one half second and not more than one second.

S9 *Dummy clothing and preparation.*

S9.1 *Type of clothing.*

(a) *Newborn dummy.* When used in testing under this standard, the dummy is unclothed.

(b) *Nine-month-old dummy.* When used in testing under this standard, the dummy is clothed in terry cloth polyester and cotton size 1 long sleeve shirt and size 1 long pants, with a total mass of 0.136 kg.

(c) *Three-year-old and six-year-old dummies.* When used in testing under this standard, the dummy is clothed in thermal knit, waffle-weave polyester and cotton underwear or equivalent, a size 4 long-sleeved shirt (3-year-old dummy) or a size 5 long-sleeved shirt (6-year-old dummy) having a mass of 0.090 kg, a size 4 pair of long pants having a mass of 0.090 kg, and cut off just far enough above the knee to allow the knee target to be visible, and size 7M sneakers (3-year-old dummy) or size 12 ½M sneakers (6-year-old dummy) with rubber toe caps, uppers of dacron and cotton or nylon and a total mass of 0.453 kg.

S9.2 *Preparing clothing.* Clothing other than the shoes is machined-washed in 71° C to 82° C and machine-dried at 49° C to 60° C for 30 minutes.

S9.3 *Preparing dummies.* Before being used in testing under this standard, dummies must be conditioned at any ambient temperature from 19° C to 25.5° C and at any relative humidity from 10 percent to 70 percent for at least 4 hours.

S10 *Positioning the dummy and attaching the system belts.*

S10.1 *Car beds.*

Place the test dummy in the car bed in the supine position with its midsagittal plane perpendicular to the center SORL of the standard seat assembly, in the case of an add-on car bed, or perpendicular to the longitudinal axis of the specific vehicle shell or the specific vehicle, in the case of a built-in car bed. Position the dummy within the car bed in accordance with the instructions for child positioning that the bed manufacturer provided with the bed in accordance with S5.6.

S10.2 *Restraints other than car beds.*

S10.2.1 *Newborn dummy and nine-month-old dummy.* Position the test dummy according to the instructions for child positioning that the manufacturer provided with the system under S5.6.1 or S5.6.2, while conforming to the following:

(a) Prior to placing the 9-month-old test dummy in the child restraint system, place the dummy in the supine position on a horizontal surface. While placing a hand on the center of the torso to prevent movement of the dummy torso, rotate the dummy legs upward by lifting the feet 90 degrees. Slowly release the legs but do not return them to the flat surface.

(b)(1) When testing forward-facing child restraint systems, holding the 9-month-old test dummy torso upright until it contacts the system's design seating surface, place the 9-month-old test dummy in the seated position within the system with the mid-sagittal plane of the dummy head—

(i) Coincident with the center SORL of the standard seating assembly, in the case of the add-on child restraint system, or

(ii) Vertical and parallel to the longitudinal center line of the specific vehicle shell or the specific vehicle, in the case of a built-in child restraint system.

(b)(2) When testing rear-facing child restraint systems, place the newborn or 9-month old dummy in the child restraint system so that the back of the dummy torso contacts the back support surface of the system. For a child restraint system which is equipped with a fixed or movable surface described in S5.2.2.2 which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2. Position each movable surface in accordance with the instructions that the manufacturer provided under S5.6.1 or S5.6.2. If the dummy's head does not remain in the proper position, it shall be taped against the front of the seat back surface of the system by means of a single thickness of 6 mm-wide paper masking tape placed across the center of the dummy's face.

(c)(1) When testing forward-facing child restraint systems, extend the arms of the 9-month-old test dummy as far as possible in the upward vertical direction. Extend the legs of the 9-month-old dummy as far as possible in the forward horizontal direction, with the dummy feet perpendicular to the centerline of the lower legs. Using a flat square surface with an area of 2580 square mm, apply a force of 178 N, perpendicular to:

(i) The plane of the back of the standard seat assembly, in the case of an add-on system, or

(ii) The back of the vehicle seat in the specific vehicle shell or the specific vehicle, in the case of a built-in system, first against the dummy crotch and then at the dummy thorax in the midsagittal plane of the dummy. For a child restraint system with a fixed or movable surface described in S5.2.2.2, which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2. Position each movable surface in accordance with the instructions that the manufacturer provided under S5.6.1 or S5.6.2.

(c)(2) When testing rear-facing child restraints, position the newborn and 9-month-old dummy arms and legs vertically upwards and then rotate each arm and leg downward toward the dummy's lower body until the arm contacts a surface of the child restraint system or the standard seat assembly in the case of an add-on child restraint system, or the specific vehicle shell or the specific vehicle, in the case of a built-in child restraint system. Ensure that no arm is restrained from movement in other than the downward direction, by any part of the system or the belts used to anchor the system to the standard seat assembly, the specific shell, or the specific vehicle.

S10.2.2 *Three-year-old and six-year-old test dummy.* Position the test dummy according to the instructions for child positioning that the restraint manufacturer provided with the system in accordance with S5.6.1 or S5.6.2, while conforming to the following:

(a) Holding the test dummy torso upright until it contacts the system's design seating surface, place the test dummy in the seated position within the system with the midsagittal plane of the test dummy head—

(1) Coincident with the center SORL of the standard seating assembly, in the case of the add-on child restraint system, or

(2) Vertical and parallel to the longitudinal center line of the specific vehicle, in the case of a built-in child restraint system.

(b) Extend the arms of the test dummy as far as possible in the upward vertical direction. Extend the legs of the dummy as far as possible in the forward horizontal direction, with the dummy feet perpendicular to the center line of the lower legs.

(c) Using a flat square surface with an area of 2580 square millimeters, apply a force of 178 N, perpendicular to:

(1) The plane of the back of the standard seat assembly, in the case of an add-on system, or

(2) The back of the vehicle seat in the specific vehicle shell or the specific vehicle, in the case of a built-in system, first against the dummy crotch and then at the dummy thorax in the midsagittal plane of the dummy. For a child restraint system with a fixed or movable surface described in S5.2.2.2, which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2. Position each movable surface in accordance with the instructions that the manufacturer provided under S5.6.1 or S5.6.2.

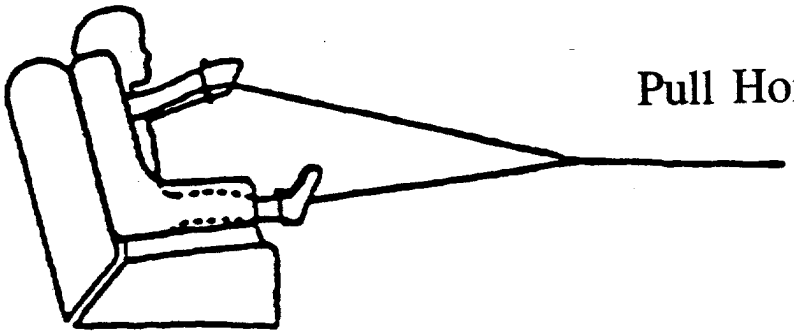
* * * * *

Figure 4 to § 571.213 [Amended]

3. Figure 4 at the end of § 571.213 is revised to read as follows:

BILLING CODE 4910–59–P

a)



b)

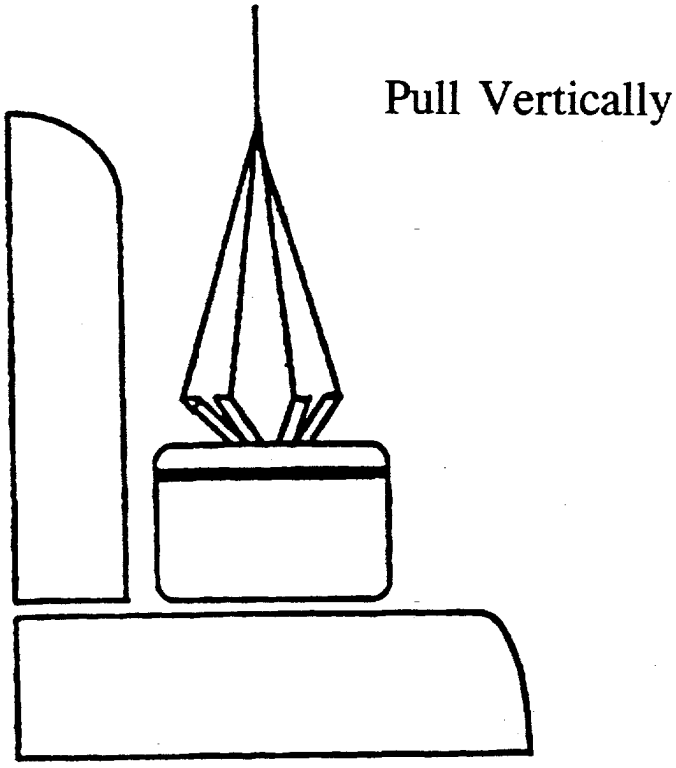


FIGURE 4 - Buckle Release Test

Issued on: June 26, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–16102 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950509041–5041–01; I.D. 062995A]

Groundfish of the Gulf of Alaska; Northern Rockfish in the Western Regulatory Area

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

ACTION: Termination of a closure.

SUMMARY: NMFS is opening directed fishing for northern rockfish in the Western Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to attain the total allowable catch (TAC) for northern rockfish in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 3, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the annual TAC for northern rockfish in the Western Regulatory Area was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995) as 640 metric tons (mt). At the same time, the directed fishery for northern rockfish in the Western Regulatory Area was closed under § 672.20(c)(2)(ii) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (60 FR 8470, February 14, 1995).

The Director, Alaska Region, NMFS, has determined that the 1995 TAC for northern rockfish in the Western Regulatory Area has not been reached; as of June 10, 1995, 623 mt remain unharvested. Therefore, NMFS is terminating the closure and opening directed fishing for northern rockfish in the Western Regulatory Area.

All other closures remain in full force and effect.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 29, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–16470 Filed 6–29–95; 4:12 pm]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 062995C]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 61

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in Statistical Area 61 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the third quarterly allowance of the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 2, 1995, until 12 noon, A.l.t., October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The third quarterly allowance of pollock TAC in Statistical Area 61 is 7,595 metric tons (mt) (60 FR 8470, February 14, 1995), determined in accordance with § 672.20(a)(2)(iv).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1995 third quarterly allowance of pollock TAC in Statistical Area 61 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 6,835 mt after determining that 760 mt will be taken as incidental catch in directed fishing for other species in Statistical Area 61 in the GOA. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 61 in the GOA.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 30, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–16607 Filed 6–30–95; 3:15 pm]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 062995D]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 63

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the third quarterly allowance of the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 5, 1995, until 12 noon, A.l.t., October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The third quarterly allowance of pollock TAC in Statistical Area 63 is 4,078 metric tons (mt) (60 FR 8470,

February 14, 1995), determined in accordance with § 672.20(a)(2)(iv).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the third quarterly allowance of pollock TAC in Statistical Area 63 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 3,670 mt after determining that 408 mt will be taken as incidental catch in directed fishing for other species in Statistical Area 63 in the GOA. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 63.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is exempt from OMB review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 30, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–16635 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 129
Thursday, July 6, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

RIN 3064–AA06

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC or Corporation) is proposing to revise its rule which sets forth the procedures to be used by members of the public in requesting records maintained by the FDIC, the amount of fees charged by the Corporation for responding to requests, the procedures to be used when appealing a decision to deny access to records or for a waiver of fees, circumstances and procedures under which exempt records might be disclosed, and the method by which a party can serve legal process on the Corporation in order to obtain information. The revisions in the proposed rule are designed to accommodate changes in the organizational structure of the Corporation, provide clearer guidance to requesters on how to obtain records under the Freedom of Information Act (FOIA) as amended by the Freedom of Information Reform Act (FOIRA), and allow the Corporation to charge appropriate fees as required under the FOIRA and the guidelines established by the United States Office of Management and Budget.

DATES: Comments must be received on before September 5, 1995.

ADDRESSES: Send comments to Jerry L. Langley, Executive Secretary, FDIC, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to room 400, 1776 F Street, NW, Washington, DC 20429 on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898–3604; Internet: comments@FDIC.gov]. Comments will be available for inspection and photocopying at the FDIC's Reading Room, room 7118, 550 17th Street, NW, Washington, DC 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Paul A. Jeddeloh, Senior Program Attorney, Office of the Executive Secretary, telephone (202) 898–7161; Z. Scott Birdwell, Senior Attorney, Corporate and Special Litigation Section, Legal Division, telephone (202) 736–0536; or Dirck A. Hargraves, Attorney, Regulation and Legislation Section, Legal Division, telephone (202) 898–7049, FDIC, 550 17th Street, NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is intended to revise the Corporation's rule governing the release of records maintained by the Corporation and sets forth the procedures to be used by members of the public when requesting such records from the FDIC, the method used by the Corporation in determining the amount of fees to be charged to various categories of requesters, the procedures to be used when appealing a decision to deny access to records or for a waiver of fees, circumstances and procedures under which exempt records might be disclosed, and the method by which a party can serve legal process on the Corporation in order to obtain information.

II. Amendments to Part 309

1. *Purpose and Scope.* No changes have been proposed in § 309.1.

2. *Definitions.* Section 309.2 provides definitions that are used throughout part 309. Proposed § 309.2(f) recognizes that the FDIC conducts joint examinations with other federal financial institutions regulators and clarifies that compliance examination reports are included within the definition of ''report of examination''. A new § 309.2(i) has been proposed in order to define the term ''Director of Division having primary authority'' as including the heads of FDIC offices which create, maintain custody, or otherwise have primary responsibility for the handling of FDIC records or information.

3. **Federal Register** *publication.* No changes have been proposed in § 309.3.

4. *Publicly available records.* Proposed § 309.4 sets forth the procedure to be followed by requesters who seek publicly available FDIC records. The FDIC has established a worldwide server on the Internet whereby users may access information. The address is set forth in the regulation. Paragraphs (a)(3) through (a)(6) of § 309.4 have been added to advise requesters that the public portion of Community Reinvestment Act (CRA) Evaluations, records regarding final compliance and enforcement actions, Summaries of Deposit Reports, and Annual Reports of Trust Assets can be obtained from the FDIC's Office of Corporate Communications.

Proposed § 309.4(b) has been amended by adding the term ''administrative'' to the term ''cases'' in order to clarify the type of final opinions and orders available through the FDIC's Office of the Executive Secretary.

Paragraphs (c)(3), (c)(4), and (c)(5) of § 309.4 have been added to advise requesters that they may obtain from the FDIC's Division of Supervision the Manual of Trust Examination Policies, the Federal Financial Institutions Examination Council Information Systems Handbook and, in the FDIC's discretion, the Consolidated Reports of Income and Consolidated Reports of Condition.

No changes have been proposed for § 309.4(d).

In proposed § 309.4(e), an updated listing of the manuals available from the Division of Depositor and Asset Services has been provided.

Proposed § 309.4(f) has been added to accommodate the creation of the FDIC's Division of Compliance and Consumer Affairs and its role as the contact for the Compliance Examination Manual.

Paragraph § 309.4(g) of the current rule has been deleted in the proposed rule since the information has been consolidated in § 309.4(e) of the proposed rule.

5. *Procedures for requesting records.* Proposed § 309.5 implements the procedural provisions of the FOIA, as amended by the FOIRA, and sets forth the procedures to be followed by members of the public when requesting records maintained by the Corporation, the method by which the Corporation would determine and charge fees for responding to such requests, a delineation of the various categories of requesters for the purpose of determining the application of fees, and

the procedures to be followed by requesters when appealing a determination by the Corporation not to grant a waiver of fees or release of records.

The FOIA established the statutory framework under which federal agencies were required to provide nonexempt records to members of the public upon request and were permitted to recover costs incurred in responding to such requests. The FOIRA significantly amended the fee provisions of the FOIA by establishing classes of FOIA requesters and providing the framework under which fees could be charged to the individual categories of requesters. The FOIRA also charged the United States Office of Management and Budget (OMB) with responsibility for issuing guidelines to be followed by federal agencies in determining the fees to be charged to requesters. OMB published its guidelines on March 27, 1987 at 52 FR 10012 and in those guidelines elaborated on the categories of requesters and stated that the fees to be charged for processing requests under FOIA should recoup the full allowable direct costs incurred in the search, review, and duplication of documents. The proposed changes to § 309.5 are intended to clarify the provisions relating to the method by which the Corporation charges fees for responding to requests under the FOIA and how requesters can obtain a list of such fees, to permit appeals of denials of waiver requests, conform the provisions of the section to the OMB guidelines, and delete an obsolete provision.

Section 309.5 has been reorganized and renumbered. The definitions applicable to § 309.5 were moved to § 309.5(a) in the proposed rule and were expanded to more fully utilize the definitions established by the OMB guidelines. For example, the last sentence in the definition of ''commercial use request'' was added to clarify the method by which the Corporation would determine whether a request falls under such category and to match the definition of ''commercial use request'' as set forth in the OMB guidelines. Likewise, the definition of ''direct costs'' was taken from the OMB guidelines and added to the proposed rule since the proposed fee provision found at § 309.5(c) utilizes such term in arriving at the fees to be charged. The remaining definitions were also expanded in conformity with the OMB guidelines.

Proposed § 309.5(b)(1) was modified, consistent with the OMB guidelines, to provide that the Corporation would not require the payment of fees by a requester when the cost of responding to a request is less than the Corporation's cost of processing the requester's remittance.

The provisions of § 309.5(b)(2) and § 309.5(b)(3) were not changed except for renumbering within the provisions.

Proposed § 309.5(c)(1) was modified to clarify that fees would not be assessed under circumstances where the total costs involved with responding to a request for records amount to less than the Corporation's cost of processing the requester's remittance; that requests made to the Corporation are for ''records'' maintained by the Corporation; that an aggregation of requests will be made for purposes of determining fees when the same ''group of requesters'' submits multiple requests for similar or related records; that a requester must agree in writing to pay costs prior to the initiation of a search; that advance payment might be required when a requester has previously failed to pay fees assessed within 30 days following mailing of the invoice; that a requester who has an outstanding fee balance may be required to pay all amounts outstanding prior to the initiation of any additional records search; that the time in which the Corporation must respond to a request for records would be extended until the written agreement, advance payment, or outstanding charge issues are resolved; that the Corporation may assess interest on outstanding bills beginning on the 31st day after mailing of the invoice and which interest assessment would relate back to the date of the invoice; and appeals of determinations not to grant a waiver or reduction of fees under § 309.5(c)(1)(ix) may be appealed to the FDIC's General Counsel.

Proposed § 309.5(c)(2)(iii) was revised to limit the charging of fees to ''the full reasonable direct cost of search and duplication'' as consistent with the OMB guidelines.

At 12 CFR 309.5(c)(3), the FDIC distinguishes among the various categories of requesters consistent with the requirements of the FOIRA and the OMB guidelines. However, the FDIC's fee schedule, as set forth at § 309.5(b)(4) of the current rule, no longer complies with the guidelines since it does not provide for the recovery by the Corporation of its direct costs associated with searches for records as required. Proposed 309.5(c)(3) would replace the fee schedule set forth in the current rule and would establish the method by which the Corporation would determine the fees to be charged requesters for search, review, and duplication of records. As provided in the proposed rule, a list of fees would be generated annually by the Corporation's Division of Finance and would be made available to all requesters at no charge through the Office of the Executive Secretary. The proposed changes to the rule would also establish the method by which the Corporation would charge the various categories of requesters for services to be provided thereby providing for continuing conformity with the FOIRA and the OMB guidelines.

In proposed § 309.5(d), a technical correction was made by the elimination of the parenthetical expression contained in § 309.5(d)(3).

Paragraph 309.5(h) of the current rule contains obsolete procedures and information and was deleted from the proposed rule.

6. *Disclosure of exempt records (§ 309.6).* In order to clarify the exempt record disclosure provisions and eliminate a redundancy, paragraph 309.6(a) as set forth in the current rule was deleted in the proposed rule and the paragraphs renumbered accordingly.

In proposed § 309.6(a), the second sentence was added to clarify that FDIC exempt records remain the property of the FDIC regardless of custody and that disclosure would be prohibited without the written permission of the Director of the FDIC's Division which holds primary authority over such records. A similar provision appears at § 309.6(b) of the current rule.

In proposed § 309.6(b), a revision was made to the current § 309.6(c) to reflect changes in the FDIC's organizational structure and the person to whom authority to disclose or authorize disclosure of exempt records would be delegated. Additionally, much of current § 309.6(c) has been removed in the proposed rule, because the provision unnecessarily repeats provisions set forth in other sections of the rule.

Proposed § 309.6(b)(1) has been modified to provide that exempt records pertaining to a depository institution may be disclosed to that depository institution by the FDIC Division Director having primary authority over those records. Similarly, proposed § 309.6(b)(2) has been modified to provide that exempt records pertaining to a state-chartered depository institution may be disclosed to the state banking authority that supervises that institution by the FDIC Division Director having primary authority over that record. Other exempt records may also be disclosed if requested in writing for a legitimate supervisory or regulatory purpose.

Under the current rule, § 309.6(c)(3) permits certain FDIC officials to disclose exempt records to other supervisory agencies. Proposed § 309.6(b)(3)

provides that the FDIC Division Director having primary authority over exempt records may disclose those records to other federal supervisory agencies and certain non-supervisory federal agencies for any legitimate purpose. The proposed rule refers the reader to the Right to Financial Privacy Act of 1978 (RFPA) for a complete list of supervisory agencies and the RFPA further provides that no notice of the disclosure of exempt records would be required to be given to customers as a condition of such disclosure. The proposed rule was also amended to provide for the disclosure of information obtained in the course of the FDIC's exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority per the conditions and limitations contained in § 206 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

The current rule set forth at § 309.6(c)(4) has been substantially rewritten for clarity. The listing of the contents of criminal referrals has been deleted due to the standardization of referral forms. In § 309.6(b)(4) of the proposed rule, criminal referrals may be made to either state or federal authorities without the provision of notice to customers, as provided in the RFPA. Additionally, exempt records may be disclosed to appropriate state or federal authorities by the Director of the Corporation's Division having primary authority over those records when there is a belief that there are federal or state civil or criminal law violations. The listing of exceptions for when notice of a disclosure of records must be provided to the customer have been deleted and a reference to applicable provisions of the RFPA has been provided.

In proposed § 309.6(b)(5), modifications were made to provide that exempt records pertaining to a depository institution may be disclosed to the servicers of such institution by the FDIC Division Director having primary authority over those records.

Proposed § 309.6(b)(6) sets forth the conditions under which exempt records may be disclosed to third parties and was modified to provide that exempt records may be disclosed to third parties by the FDIC Division Director with primary authority over such records for good cause, but only pursuant to a written request, and only after requiring such conditions as are necessary to protect the confidentiality of the records. Extraneous language was also deleted from the provision.

Proposed § 309.6(b)(7) sets forth the conditions under which depository institutions or other third parties in possession of FDIC exempt records may be authorized to disclose the records. This paragraph has been modified to provide that third parties may be authorized by the FDIC Division Director with primary authority over those records to disclose any exempt records, but only pursuant to a written request, and only after requiring such conditions as are necessary to protect the confidentiality of the records.

Proposed § 309.6(b)(8) permits the General Counsel (or designee) to disclose or authorize disclosure of exempt records or information (including testimony) in litigation in response to a subpoena or otherwise for good cause and in the interests of justice. The amendments would also clarify the FDIC's current position that the General Counsel's authority extends to records or information held by *former* FDIC employees or officials when the records were obtained in course of the former employee's employment with the FDIC. Significantly, the amendments are intended to clarify that, in situations where the FDIC has not been made a party to litigation, prior to serving a subpoena or other legal process on the FDIC, a requester must first exhaust their administrative procedures by seeking disclosure of FDIC records pursuant to the procedures set forth § 309.5. Such requirement provides the FDIC with the opportunity to exercise its discretion regarding whether an exempt record should be disclosed. The lengthy list of the exceptions for when notice to the customer must be provided has been deleted and replaced by a simple citation to the exceptions provided by the RFPA.

Paragraph § 309.6(c)(9) of the current rule was deleted from the proposed rule since other amendments to the rule clarified the authority of Division Directors involving records over which they have primary authority.

Under proposed § 309.6(b)(9), the Chairman would be able to authorize the disclosure or withholding of exempt records or information whenever the public interest is served by such action. The provision extends the Chairman's authority to former employees or officials and governs testimony as well as records.

Proposed § 309.6(b)(10) clarifies that any disclosure of exempt records by the FDIC would be discretionary, that FDIC officials have authority to condition disclosure, that all steps must be taken to protect the confidentiality of exempt information, and that should exempt records be disclosed, such disclosure should be pursuant to appropriate protective orders or confidentiality agreements and with appropriate redaction.

7. *Service of process.* Section 309.7 in the proposed rule provides notice of the appropriate means of serving process on the FDIC, that persons in possession of FDIC exempt records who receive a subpoena must notify the FDIC, and that persons in possession of FDIC exempt records must appear as required and refuse to produce such records or testify thereon in the absence of authorization from the FDIC. If the FDIC is named as a party, service of process must conform to Federal Rules of Civil Procedure. The amendments clarify that former FDIC employees or officials in possession of FDIC records must notify the FDIC of any subpoena or legal process served on them which relates to exempt records or information, and must not disclose such records or information without the General Counsel's authorization.

8. *Generally.* The term ''records'' has replaced the terms ''information'' and ''documents'' in appropriate places throughout the regulation in order to clarify that, in most instances, requests made under the rule would involve requests for disclosure of records maintained by the Corporation. The term ''information'' was retained in various places in the rule in recognition of the limited circumstances where more than records might be sought.

Certain references to ''Reports of Examination'' have been deleted to make clear that the regulation governs all exempt records.

Certain references to ''Division of Supervision'' have been deleted and/or replaced with other office designations to make clear that other Divisions may have primary authority over an exempt record.

References to ''or anyone he designates in writing'' has been replaced by ''or designee'' to provide simplicity and a gender neutral term.

III. Matters of Regulatory Procedure

Administrative Procedure Act

This proposed rulemaking is in compliance with the Administrative Procedure Act (5 U.S.C. 553) and allows for a 60-day comment period.

Authority

These amendments are promulgated under the FDIC's general authority to prescribe, through its Board of Directors, such rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act or any other law which the FDIC has the responsibility of administering or enforcing (except to the extent that authority to issue such

rules and regulations has been expressly and exclusively granted to any other regulatory agency). 12 U.S.C. 1819 ''Seventh'' and ''Tenth''; 5 U.S.C. 552.

Regulatory Flexibility Act

The Board of Directors has concluded that the proposed rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the proposed rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The Board of Directors has determined that this proposed regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

List of Subjects in 12 CFR Part 309

Banks, banking, Credit, Freedom of information, Privacy.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation is proposing to revise Part 309 of Chapter III of title 12, of the Code of Federal Regulations to read as follows:

PART 309—DISCLOSURE OF INFORMATION

Sec.

Authority: 5 U.S.C. 552; 12 U.S.C. 1819 ''Seventh'' and ''Tenth''.

§ 309.1 Purpose and scope.

This part sets forth the basic policies of the Federal Deposit Insurance Corporation regarding information it maintains and the procedures for obtaining access to such information.

§ 309.2 Definitions.

For purposes of this part:

(a) The term *depository institution*, as used in § 309.6, includes depository institutions that have applied to the Corporation for federal deposit insurance, closed depository institutions, presently operating federally insured depository institutions, foreign banks, branches of foreign banks, and all affiliates of any of the foregoing.

(b) The terms *Corporation* or *FDIC* mean the Federal Deposit Insurance Corporation.

(c) The words *disclose* or *disclosure*, as used in § 309.6, mean to give access to a record, whether by producing the written record or by oral discussion of its contents. Where the Corporation employee authorized to release Corporation documents makes a determination that furnishing copies of the documents is necessary, the words *disclose* or *disclosure* include the furnishing of copies of documents or records. In addition, *disclose* or *disclosure* as used in § 309.6 is synonymous with the term *transfer* as used in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*).

(d) The term *examination* includes, but is not limited to, formal and informal investigations of irregularities involving suspected violations of federal or state civil or criminal laws, or unsafe and unsound practices as well as such other investigations as may be conducted pursuant to law.

(e) The term *record* includes records, files, documents, reports, correspondence, books, and accounts, or any portion thereof.

(f) The term *report of examination* includes, but is not limited to, examination reports resulting from examinations of depository institutions conducted jointly by Corporation examiners and state banking authority examiners or other federal financial institution examiners, as well as reports resulting from examinations conducted solely by Corporation examiners. The term also includes compliance examination reports.

(g) The term *customer financial records*, as used in § 309.6, means an original of, a copy of, or information known to have been derived from, any record held by a depository institution pertaining to a customer's relationship with the depository institution but does not include any record that contains information not identified with or identifiable as being derived from the financial records of a particular customer. The term *customer* as used in § 309.6 refers to individuals or partnerships of five or fewer persons.

(h) The term *Director of the Division having primary authority* includes Deputies to the Chairman and directors of FDIC Divisions and Offices that create, maintain custody, or otherwise have primary responsibility for the handling of FDIC records or information.

§ 309.3 Federal Register publication.

The FDIC publishes the following information in the **Federal Register** for the guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the FDIC;

(e) Every amendment, revision or repeal of the foregoing; and

(f) General notices of proposed rule-making.

§ 309.4 Publicly available records.

The following records are available upon request or, as noted, available for public inspection during normal business hours, at the listed offices. Certain records are also available on the Internet at the following address: http://www.fdic.gov. To the extent permitted by law, the FDIC may delete identifying details when it makes available or publishes a final opinion, final order, statement of policy, interpretation or staff manual or instruction. Fees for furnishing records under this section are as set forth in § 309.5(c).

(a) At the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429, (202) 898–6996:

(1) Documents, including press releases, financial institution letters and proposed and adopted regulations, published by the FDIC and pertaining to its operations and those of insured depository institutions that it supervises.

(2) Reports on the competitive factors involved in merger transactions and the bases for approval of merger transactions as required by sections 18(c)(4) and 18(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4) and (9)).

(3) Community Reinvestment Act (CRA) Public Evaluations.

(4) Final decisions and orders concerning compliance, enforcement, and other related administrative actions.

(5) At the FDIC's discretion, Summary of Deposits filed by insured depository institutions, except that information on the size and number of accounts filed before June, 1982 is not available.[1]

(6) Annual Report of Trust Assets for commercial banks and state savings banks.[2]

(b) At the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429, which information is available for public inspection:

(1) All final opinions (including concurring and dissenting opinions) and all final orders made in the adjudication of administrative cases.

(2) Statements of policy and interpretations which have been adopted by the FDIC but have not been published in the **Federal Register**.

(3) A current index of matters covered by paragraphs (b)(1) and (b)(2) of this section that were issued, adopted or promulgated after July 4, 1967. Copies of the index will be provided at the direct cost of duplication as set forth in § 309.5(b).

(c) At the Division of Supervision, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429:

(1) Filings and reports required under the provisions of 12 CFR Part 335 and the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78a), by insured nonmember banks the securities of which are registered with the FDIC pursuant to section 12 of that Act (15 U.S.C. 78l). These filings and reports are available for public inspection as detailed in 12 CFR 335.702.

(2) Manual of Examination Policies.

(3) Manual of Trust Examination Policies.

(4) Federal Financial Institutions Examination Council (FFIEC) Information Systems Examination Handbook.

(5) In the FDIC's discretion, the Consolidated Reports of Condition and Income filed by insured nonmember banks (and certain nonfederally insured depository institutions in the case of reports of condition), except that select sensitive financial information may be withheld.[3]

(d) At the regional office of the FDIC for the region in which the applicant or subject depository institution is located (A list of FDIC's regional offices is available from the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, DC 20429, (202) 898–6996):

(1) In the FDIC's discretion, non-confidential portions of application files as provided in 12 CFR 303.6(g), including applications for deposit insurance, to establish branches, to relocate offices and to merge.

(2)(i) After acceptance by the FDIC of a notice filed pursuant to the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) (other than a notice filed in contemplation of a public tender offer subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), the appropriate FDIC regional office will make available, on request, the following information: The name of the depository institution whose stock is to be acquired; the date the notice was accepted; the identity of the acquiring person(s); the number of shares to be acquired; and the number of outstanding shares of stock in the depository institution. (The mere filing of a notice does not automatically constitute ''acceptance'' by the FDIC; a notice is ''accepted'' when the regional office determines that the notice contains all the information required by 12 U.S.C. 1817(j)(6)).

(ii) In the case of a notice filed in contemplation of a public tender offer that is subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), when public disclosure is determined under § 303.4(b)(4) of the FDIC's regulations (12 CFR 303.4(b)(4)) to be appropriate, the appropriate FDIC regional office will make available, on request, the information described in paragraph (d)(2)(i) of this section.

(iii) After a transaction subject to the Change in Bank Control Act of 1978 has been consummated, the appropriate FDIC regional office will make available, on request, the following information, in addition to the information described in paragraph (d)(2)(i) of this section: The date the shares were acquired; the names of the sellers (or transferors); and the total number of shares owned by the purchasers (or acquirors).

(e) At the Division of Depositor and Asset Services, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C., 20429:

(1) Credit Manual;

(2) Agriculture Manual;

(3) Claims Manual;

(4) Operations Manual;

(5) Closing Manual;

(6) Environmental Guidelines Manual;

(7) Deposit Insurance Manual;

(8) Settlement Manual.

(f) At the Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429: Compliance Examination Manual.

§ 309.5 Procedures for requesting records.

(a) Definitions. For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a requester who seeks records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request falls within this category, the FDIC will determine the use to which a requester will put the records requested and seek additional information as it deems necessary.

(2) *Direct costs* means those expenditures the FDIC actually incurs in searching for, duplicating, and, in the case of commercial requesters, reviewing records in response to a request for records.

(3) *Duplication* means the process of making a copy of a record necessary to respond to a request for records or for inspection of original records that contain exempt material or that cannot otherwise be directly inspected. Such copies can take the form of paper copy, microfilm, audiovisual records, or machine readable records (e.g., magnetic tape or computer disk).

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(5) *Non-commercial scientific institution* means an institution that is not operated on a *commercial* basis as that term is defined in paragraph (a)(1) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(6) *Representative of the news media* means any person actively gathering news for, or a free-lance journalist who reasonably expects to have his or her work product published or broadcast by, an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events

[1] Summary of Deposits reports are described at 12 CFR 304.5.

[2] Annual Report of Trust Assets, FFIEC Form 001.

[3] Reports of income and of condition are described at 12 CFR 304.4.

or that would be of current interest to the general public.

(7) *Review* means the process of examining records located in response to a request for records to determine whether any portion of any record is permitted to be withheld as exempt information. It includes processing any record for disclosure, e.g., doing all that is necessary to excise them or otherwise prepare them for release.

(8) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within records. Searches may be done manually and/or by computer using existing programming.

(b) *Initial request.* (1) Except as provided in paragraphs (d) and (h) of this section, the FDIC, upon request for any record in its possession, will make the record available to any person who agrees to pay the costs of searching, review and duplication as set forth in paragraph (c) of this section. The request must be in writing, provide information reasonably sufficient to enable the FDIC to identify the requested records and specify a dollar limit which the requester is willing to pay for the costs of searching, review and duplication, unless the costs are believed to be less than the FDIC's cost of processing the requester's remittance, which cost will be set forth in the ''Notice of Federal Deposit Insurance Corporation Records Fees'' as described in paragraph (c)(3) of this section. Requests under this paragraph (b) should be addressed to the Office of the Executive Secretary, FDIC, 550–17th Street, N.W., Washington, DC 20429.

(2) The FDIC will transmit notice to the requester within 10 business days after receipt of the initial request whether it is granted or denied. Denials of requests will be based on the exemptions provided for in paragraph (d) of this section.

(3) Notification of a denial of an initial request will be in writing and will state:

(i) If the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (when other than the person signing the notification);

(iii) The exemptions relied on for the denial; and

(iv) The right of the requester to appeal the denial to the FDIC's General Counsel within 30 business days following receipt of the notification.

(c) *Fees*—(1) *General rules.* (i) Persons requesting records of the FDIC shall be charged for the direct costs of search, duplication and review as set forth in paragraphs (c)(2) and (c)(3) of this section, unless such costs are less than the FDIC's cost of processing the requester's remittance.

(ii) Requesters will be charged for search and review costs even if responsive records are not located and, if located, are determined to be exempt from disclosure.

(iii) Multiple requests seeking similar or related records from the same requester or group of requesters will be aggregated for the purposes of this section.

(iv) If the FDIC determines that the estimated costs of search, duplication or review of requested records will exceed the dollar amount specified in the request or if no dollar amount is specified, the FDIC will advise the requester of the estimated costs (if greater than the FDIC's cost of processing the requester's remittance). The requester must agree in writing to pay the costs of search, duplication and review prior to the FDIC initiating any records search.

(v) If the FDIC estimates that its search, duplication and review costs will exceed $250.00, the requester must pay an amount equal to 20 percent of the estimated costs prior to the FDIC initiating any records search.

(vi) The FDIC may require any requester who has previously failed to pay the charges under this section within 30 days of mailing of the invoice to pay in advance the total estimated costs of search, duplication and review. The FDIC may also require a requester who has any charges outstanding in excess of 30 days following mailing of the invoice to pay the full amount due, or demonstrate that the fee has been paid in full, prior to the FDIC initiating any additional records search.

(vii) The FDIC may begin assessing interest charges on unpaid bills on the 31st day following the day on which the notice was sent. Interest will be at the rate prescribed in section 3717 of Title 31 of the United States Code and will accrue from the date of the invoice.

(viii) The time limit for FDIC to respond to a request will not begin to run until the FDIC has received the requester's written agreement under paragraph (c)(1)(iv) of this section, and advance payment under paragraph (c)(1)(v) or (vi) of this section, or outstanding charge under paragraph (c)(1)(vi) of this section.

(ix) As part of the initial request, a requester may ask that the FDIC waive or reduce fees if disclosure of the records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Determinations as to a waiver or reduction of fees will be made by the Executive Secretary (or designee) and the requester will be notified in writing of his/her determination. A determination not to grant a request for a waiver or reduction of fees under this paragraph may be appealed to the FDIC's General Counsel (or designee) pursuant to the procedure set forth in paragraph (e) of this section.

(2) *Chargeable fees by category of requester.* (i) Commercial use requesters shall be charged search, duplication and review costs.

(ii) Educational institutions, non-commercial scientific institutions and news media representatives shall be charged duplication costs, except for the first 100 pages.

(iii) Requesters not within the scope of paragraph (c)(2)(i) or (ii) of this section shall be charged the full reasonable direct cost of search and duplication, except for the first two hours of search time and first 100 pages of duplication.

(3) *Fee schedule.* The dollar amount of fees which the FDIC may charge to records requesters will be established by the Chief Financial Officer of the FDIC (or designee), and will be set forth in the ''Notice of Federal Deposit Insurance Corporation Records Fees'' issued in December of each year or in such ''Interim Notice of Federal Deposit Insurance Corporation Records Fees'' as may be issued. Copies of such notices may be obtained at no charge from the FDIC's Office of the Executive Secretary, FOIA Unit, 550 17th Street, N.W., Washington, D.C. 20429. The fees implemented in the December or Interim Notice will be effective 30 days after issuance. The FDIC may charge fees that recoup the full allowable direct costs it incurs. The FDIC may contract with independent contractors to locate, reproduce, and/or disseminate records; provided however, that the FDIC has determined that the ultimate cost to the requester will be no greater than it would be if the FDIC performed these tasks itself. In no case will the FDIC contract out responsibilities which the Freedom of Information Act (FOIA) (5 U.S.C. 552) provides that the FDIC alone may discharge, such as determining the applicability of an exemption or whether to waive or reduce fees. Fees are subject to change as costs change.

(i) *Manual searches for records.* The FDIC will charge for manual searches for records at the basic rate of pay of the employee making the search plus 16 percent to cover employee benefit costs. Where a single class of personnel (e.g., all clerical, all professional, or all executive) is used exclusively, the FDIC,

at its discretion, may establish and charge an average rate for the range of grades typically involved.

(ii) *Computer searches for records.* The fee for searches of computerized records is the actual direct cost of the search, including computer time, computer runs, and the operator's time apportionable to the search. The fee for a computer printout is the actual cost. The fees for computer supplies are the actual costs. The FDIC may, at its discretion, establish and charge a fee for computer searches based upon a reasonable FDIC-wide average rate for central processing unit operating costs and the operator's basic rate of pay plus 16 percent to cover employee benefit costs.

(iii) *Duplication of records.* (A) The per-page fee for paper copy reproduction of documents is the average FDIC-wide cost based upon the reasonable direct costs of making such copies.

(B) For other methods of reproduction or duplication, the FDIC will charge the actual direct costs of reproducing or duplicating the documents.

(iv) *Review of records.* The FDIC will charge commercial use requesters for the review of records at the time of processing the initial request to determine whether they are exempt from mandatory disclosure at the basic rate of pay of the employee making the search plus 16 percent to cover employee benefit costs. Where a single class of personnel (e.g., all clerical, all professional, or all executive) is used exclusively, the FDIC, at its discretion, may establish and charge an average rate for the range of grades typically involved. The FDIC will not charge at the administrative appeal level for review of an exemption already applied. When records or portions of records are withheld in full under an exemption which is subsequently determined not to apply, the FDIC may charge for a subsequent review to determine the applicability of other exemptions not previously considered.

(v) *Other services.* Complying with requests for special services is at the FDIC's discretion. The FDIC may recover the full costs of providing such services to the extent it elects to provide them.

(d) *Exempt information.* A request for records may be denied if the requested record contains information which falls into one or more of the following categories.[4] If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester:

(1) Records which are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the FDIC;

(3) Records specifically exempted from disclosure by statute, provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that is privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the FDIC;

(6) Personnel, medical, and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished records on a confidential basis;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Records that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the FDIC or any agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(e) *Appeals.* (1) A person whose initial request for records under paragraph (a) of this section, or whose request for a waiver of fees under paragraph (c)(1)(ix) of this section, has been denied, either in part or in whole, has the right to appeal the denial to FDIC's General Counsel (or designee) within 30 business days after receipt of notification of the denial. Appeals of denials of initial requests or for a waiver of fees must be in writing and include any additional information relevant to consideration of the appeal. Appeals should be addressed to the Office of the Executive Secretary, FDIC, 550–17th Street, N.W., Washington, DC 20429.

(2) The FDIC will notify the appellant within 20 business days after receipt of the appeal whether it is granted or denied. Denials of appeals on initial requests for records will be based on the exemptions provided for in paragraph (c) of this section.

(3) Notifications of a denial of an appeal will be in writing and will state:

(i) Whether the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (if other than the person signing the notification);

(iii) The exemptions relied upon for the denial in the case of initial requests for records; and

(iv) The right to judicial review of the denial under the FOIA.

(f) *Extension of time.* (1) Under unusual circumstances the FDIC may require additional time, up to a maximum of 10 business days, to determine whether to grant or deny an initial request or to respond to an appeal of an initial denial. These circumstances would arise in cases where:

(i) The records are in facilities, such as field offices or storage centers, that are not part of the FDIC's Washington office;

(ii) The records requested are voluminous and are not in close proximity to one another; or

(iii) There is a need to consult with another agency or among two or more components of the FDIC having a substantial interest in the determination.

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[4] Classification of a record as exempt from disclosure under the provisions of § 309.5(d) shall not be construed as authority to withhold the record if it is otherwise subject to disclosure under the Privacy Act of 1974 (5 U.S.C. 552a) or other federal statute, any applicable regulation of FDIC or any other federal agency having jurisdiction thereof, or any directive or order of any court of competent jurisdiction.

(2) The FDIC will promptly give written notification to the person making the request of the estimated date it will make its determination and the reasons why additional time is required.

(g) *FDIC procedures.* (1) Initial requests for records will be forwarded by the Executive Secretary to the head of the FDIC division or office which has primary authority over such records. Where it is determined that the requested records may be released, the appropriate division or office head will grant access to the records. A request for records may be denied only by the Executive Secretary (or designee), except that a request for records not responded to within 10 business days following its receipt by the Office of Executive Secretary—by notice to the requester either granting the request, denying the request, or extending the time for making a determination on the request—shall, if the requester chooses to treat such delay in response as a denial, be deemed to have been denied.

(2) Appeals from a denial of an initial request will be forwarded by the Executive Secretary to the General Counsel (or designee) for a determination whether the appeal will be granted or denied. The General Counsel (or designee) may on his or her own motion refer an appeal to the Board of Directors for a determination or the Board of Directors may in its discretion consider such an appeal.

(h) *Records of another agency.* If a requested record is the property of another federal agency or department, and that agency or department, either in writing or by regulation, expressly retains ownership of such record, upon receipt of a request for the record the FDIC will promptly inform the requester of this ownership and immediately shall forward the request to the proprietary agency or department either for processing in accordance with the latter's regulations or for guidance with respect to disposition.

§ 309.6 Disclosure of exempt records.

(a) *Disclosure prohibited.* Except as provided in paragraph (b) of this section or by 12 CFR part 310[5], no person shall disclose or permit the disclosure of any exempt records, or information contained therein, to any persons other than those officers, directors, employees, or agents of the Corporation who have a need for such records in the performance of their official duties. In any instance in which any person has possession, custody or control of FDIC exempt records or information contained therein, all copies of such records shall remain the property of the Corporation and under no circumstances shall any person, entity or agency disclose or make public in any manner the exempt records or information without written authorization from the Director of the Corporation's Division having primary authority over the records or information as provided in this section.

(b) *Disclosure authorized.* Exempt records or information of the Corporation may be disclosed only in accordance with the conditions and requirements set forth in this paragraph (b). Requests for discretionary disclosure of exempt records or information pursuant to this paragraph (b) may be submitted directly to the Division having primary authority over the exempt records or information or to the Office of Executive Secretary for forwarding to the appropriate Division having primary authority over the records sought. Such administrative request must clearly state that it seeks discretionary disclosure of exempt records, clearly identify the records sought, provide sufficient information for the Corporation to evaluate whether there is good cause for disclosure, and meet all other conditions set forth in paragraphs (b)(1) through (10) of this section. Information regarding the appropriate FDIC Division having primary authority over a particular record or records may be obtained from the Office of Executive Secretary. Authority to disclose or authorize disclosure of exempt records of the Corporation is delegated as follows:

(1) *Disclosure to depository institutions.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose to any director or authorized officer, employee or agent of any depository institution, information contained in, or copies of, exempt records pertaining to that depository institution.

(2) *Disclosure to state banking agencies.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose to any authorized officer or employee of any state banking or securities department or agency, copies of any exempt records to the extent the records pertain to a state-chartered depository institution supervised by the agency or authority, or where the exempt records are requested in writing for a legitimate depository institution supervisory or regulatory purpose.

(3) *Disclosure to federal financial institutions supervisory agencies and certain other agencies.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose to any authorized officer or employee of any federal financial institution supervisory agency including the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, the Securities and Exchange Commission, the National Credit Union Administration, or any other agency included in section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et. seq.*) (RFPA), any exempt records for a legitimate depository institution supervisory or regulatory purpose. The Director, or designee, may in his or her discretion and for good cause, disclose exempt records, including customer financial records, to certain other federal agencies as referenced in section 1113 of the RFPA for the purposes and to the extent permitted therein, or to any foreign bank regulatory or supervisory authority as provided, and to the extent permitted, by section 206 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(4) *Disclosure to prosecuting or investigatory agencies or authorities.* (i) Reports of Apparent Crime pertaining to suspected violations of law, which may contain customer financial records, may be disclosed to federal or state prosecuting or investigatory authorities without giving notice to the customer, as permitted in the relevant exceptions of the RFPA.

(ii) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose to the proper federal or state prosecuting or investigatory authorities, or to any authorized officer or employee of such authority, copies of exempt records pertaining to irregularities discovered in depository institutions which are believed to constitute violations of any federal or state civil or criminal law, or unsafe or unsound banking practices, provided that customer financial records may be disclosed without giving notice to the customer, only as permitted by the relevant exceptions of the RFPA. Unless such disclosure is initiated by the FDIC, customer financial records shall be disclosed only in response to a written request which:

(A) Is signed by an authorized official of the agency making the request;

(B) Identifies the record or records to which access is requested; and

[5] The procedures for disclosing records under the Privacy Act are separately set forth in 12 CFR part 310.

(C) Gives the reasons for the request.

(iii) When notice to the customer is required to be given under the RFPA, the Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose customer financial records to any federal or state prosecuting or investigatory agency or authority, provided, that:

(A) The General Counsel, or designee, has determined that disclosure is authorized or required by law; or

(B) Disclosure is pursuant to a written request that indicates the information is relevant to a legitimate law enforcement inquiry within the jurisdiction of the requesting agency and:

(*1*) The Director of the Corporation's Division having primary authority over the exempt records, or designee, certifies pursuant to section 1112(a)[6] of the RFPA that the records are believed relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency; and

(*2*) A copy of such certification and the notice required by section 1112(b)[7] of the RFPA is sent within fourteen days of the disclosure to the customer whose records are disclosed.[8]

(5) *Disclosure to servicers and serviced institutions.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose copies of any exempt record related to a bank data center, a depository institution service corporation or any other data center that provides data processing or related services to an insured institution (hereinafter referred to as ''data center'') to:

(i) The examined data center;

(ii) Any insured institution that receives data processing or related services from the examined data center;

(iii) Any state agency or authority which exercises general supervision over an institution serviced by the examined data center; and

(iv) Any federal financial institution supervisory agency which exercises general supervision over an institution serviced by the examined data center. The federal supervisory agency may disclose any such examination report received from the Corporation to an insured institution over which it exercises general supervision and which is serviced by the examined data center.

(6) *Disclosure to third parties.* (i) Except as otherwise provided in paragraphs (c) (1) through (5) of this section, the Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose copies of any exempt records to any third party where requested to do so in writing. Any such written request shall:

(A) Specify, with reasonable particularity, the record or records to which access is requested; and

(B) Give the reasons for the request.

(ii) Either prior to or at the time of any disclosure, the Director or designee shall require such terms and conditions as he deems necessary to protect the confidential nature of the record, the financial integrity of any depository institution to which the record relates, and the legitimate privacy interests of any individual named in such records.

(7) *Authorization for disclosure by depository institutions or other third parties.* (i) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may, in his or her discretion and for good cause, authorize any director, officer, employee, or agent of a depository institution to disclose copies of any exempt record in his custody to anyone who is not a director, officer or employee of the depository institution. Such authorization must be in response to a written request from the party seeking the record or from management of the depository institution to which the report or record pertains. Any such request shall specify, with reasonable particularity, the record sought, the party's interest therein, and the party's relationship to the depository institution to which the record relates.

(ii) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may, in his or her discretion and for good cause, authorize any third party, including a federal or state agency, that has received a copy of a Corporation exempt record, to disclose such exempt record to another party or agency. Such authorization must be in response to a written request from the party that has custody of the copy of the exempt record. Any such request shall specify the record sought to be disclosed and the reasons why disclosure is necessary.

(iii) Any subsidiary depository institution of a bank holding company or a savings and loan holding company may reproduce and furnish a copy of any report of examination of the subsidiary depository institution to the parent holding company without prior approval of the Director of the Division having primary authority over the exempt records and any depository institution may reproduce and furnish a copy of any report of examination of the disclosing depository institution to a majority shareholder if the following conditions are met:

(A) The parent holding company or shareholder owns in excess of 50% of the voting stock of the depository institution or subsidiary depository institution;

(B) The board of directors of the depository institution or subsidiary depository institution at least annually by resolution authorizes the reproduction and furnishing of reports of examination (the resolution shall specifically name the shareholder or parent holding company, state the address to which the reports are to be sent, and indicate that all reports furnished pursuant to the resolution remain the property of the Federal Deposit Insurance Corporation and are not to be disclosed or made public in any manner without the prior written approval of the Director of the Corporation's Division having primary authority over the exempt records as provided in paragraph (b) of this section);

(C) A copy of the resolution authorizing disclosure of the reports is sent to the shareholder or parent holding company; and

(D) The minutes of the board of directors of the depository institution or subsidiary depository institution for the meeting immediately following disclosure of a report state:

(*1*) That disclosure was made;

(*2*) The date of the report which was disclosed;

(*3*) To whom the report was sent; and

(*4*) The date the report was disclosed.

(iv) With respect to any disclosure that is authorized under paragraph (b)(7) of this section, the Director of the Corporation's Division having primary authority over the exempt records, or designee, shall only permit disclosure of

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[6] The form of certification generally is as follows. Additional information may be added:

Pursuant to section 1112(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), I, _____ [name and appropriate title] hereby certify that the financial records described below were transferred to (agency or department) in the belief that they were relevant to a legitimate law enforcement inquiry, within the jurisdiction of the receiving agency.

[7] The form of notice generally is as follows. Additional information may be added:

Dear Mr./Mrs. _____:

Copies of, or information contained in, your financial records lawfully in the possession of the Federal Deposit Insurance Corporation have been furnished to (agency or department) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose: _____. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Right to Financial Privacy Act of 1978 or the Privacy Act of 1974.

[8] Whenever the Corporation is subject to a court-ordered delay of the customer notice, the notice shall be sent immediately upon the expiration of the court-ordered delay.

records upon determining that good cause exists. If the exempt record contains information derived from depository institution customer financial records, disclosure is to be authorized only upon the condition that the requesting party and the party releasing the records comply with any applicable provision of the RFPA. Before authorizing the disclosure, the Director (or designee) may require that both the party having custody of a copy of a Corporation exempt record and the party seeking access to the record agree to such limitations as the Director (or designee) deems necessary to protect the confidential nature of the record, the financial integrity of any depository institution to which the record relates and the legitimate privacy interests of any persons named in such record.

(8) *Disclosure by General Counsel.* (i) The Corporation's General Counsel, or designee, may disclose or authorize the disclosure of any exempt record in response to a valid judicial subpoena, court order, or other legal process, and authorize any current or former officer, director, employee, agent of the Corporation, or third party, to appear and testify regarding an exempt record or any information obtained in the performance of such person's official duties, at any administrative or judicial hearing or proceeding where such person has been served with a valid subpoena, court order, or other legal process requiring him or her to testify. The General Counsel shall consider the relevancy of such exempt records or testimony to the litigation, and the interests of justice, in determining whether to disclose such records or testimony. Third parties seeking disclosure of exempt records or testimony in litigation to which the FDIC is not a party shall submit a request for discretionary disclosure directly to the General Counsel.[9] Such request shall specify the information sought with reasonable particularity and shall be accompanied by a statement with supporting documentation showing in detail the relevance of such exempt information to the litigation, justifying good cause for disclosure, and a commitment to be bound by a protective order. Failure to exhaust such administrative request prior to service of a subpoena, court order or other legal process may, in the General Counsel's discretion, serve as a basis for objection to such subpoena, court order or legal process. Customer financial records may not be disclosed to any federal agency that is not a federal financial supervisory agency pursuant to this paragraph unless notice to the customer and certification as required by the RFPA have been given except where disclosure is subject to the relevant exceptions set forth in the RFPA.

(ii) The General Counsel, or designee, may in his or her discretion and for good cause, disclose or authorize disclosure of any exempt record or testimony by a current or former officer, director, employee, agent of the Corporation, or third party, sought in connection with any civil or criminal hearing, proceeding or investigation without the service of a judicial subpoena, or other legal process requiring such disclosure or testimony, if he or she determines that the records or testimony are relevant to the hearing, proceeding or investigation and that disclosure is in the best interests of justice. Customer financial records shall not be disclosed to any federal agency pursuant to this paragraph that is not a federal financial supervisory agency, unless the records are sought under the Federal Rules of Civil Procedure (28 U.S.C. appendix) or the Federal Rules of Criminal Procedure (18 U.S.C. appendix) or comparable rules of other courts and in connection with litigation to which the receiving federal agency, employee, officer, director, or agent, and the customer are parties, or disclosure is otherwise subject to the relevant exceptions in the RFPA. Where the General Counsel or designee authorizes a current or former officer, director, employee or agent of the Corporation to testify or disclose exempt records pursuant to this paragraph (b)(8), he or she may, in his or her discretion, limit the authorization to so much of the record or testimony as is relevant to the issues at such hearing, proceeding or investigation, and he or she shall give authorization only upon fulfillment of such conditions as he or she deems necessary and practicable to protect the confidential nature of such records or testimony.

(9) *Authorization for disclosure by the Chairman of the Corporation's Board of Directors.* Except where expressly prohibited by law, the Chairman of the Corporation's Board of Directors may in his or her discretion, authorize the disclosure of any Corporation records. Except where disclosure is required by law, the Chairman may direct any current or former officer, director, employee or agent of the Corporation to refuse to disclose any record or to give testimony if the Chairman determines, in his or her discretion, that refusal to permit such disclosure is in the public interest.

(10) *Limitations on disclosure.* All steps practicable shall be taken to protect the confidentiality of exempt records and information. Any disclosure permitted by paragraph (b) of this section is discretionary and nothing in paragraph (b) of this section shall be construed as requiring the disclosure of information. Further, nothing in paragraph (b) of this section shall be construed as restricting, in any manner, the authority of the Board of Directors, the Chairman of the Board of Directors, the Director of the Corporation's Division having primary authority over the exempt records, the Corporation's General Counsel, or their designees, or any other Corporation Division or Office head, in their discretion and in light of the facts and circumstances attendant in any given case, to require conditions upon and to limit the form, manner, and extent of any disclosure permitted by this section. Wherever practicable, disclosure of exempt records shall be made pursuant to a protective order and redacted to exclude all irrelevant or non-responsive exempt information.

§ 309.7 Service of process.

(a) *Service.* Any subpoena or other legal process to obtain information maintained by the FDIC shall be duly issued by a court having jurisdiction over the FDIC, and served upon either the Executive Secretary (or designee), FDIC, 550 17th Street, NW., Washington, DC 20429, or the Regional Director or Regional Manager of the FDIC region where the legal action from which the subpoena or process was issued is pending. A list of the FDIC's regional offices is available from the Office of Corporate Communications, FDIC, 550 17th Street, NW., Washington, DC 20429 (telephone 202–898–6996). Where the FDIC is named as a party, service of process shall be made pursuant to the Federal Rules of Civil Procedure, and upon the Executive Secretary (or designee), FDIC, 550 17th Street NW., Washington, DC 20429, or upon the agent designated to receive service of process in the state, territory, or jurisdiction in which any insured depository institution is located. Identification of the designated agent in the state, territory, or jurisdiction may be obtained from the Office of the Executive Secretary or from the Office of the General Counsel, FDIC, 550 17th Street NW., Washington, DC 20429. The Executive Secretary (or designee), Regional Director or designated agent shall immediately forward any

[9] This administrative requirement does not apply to subpoenas, court orders or other legal process issued for records of depository institutions held by the FDIC as Receiver or Conservator. Subpoenas, court orders or other legal process issued for such records will be processed in accordance with State and Federal law, regulations, rules and privileges applicable to FDIC as Receiver or Conservator.

subpoena, court order or legal process to the General Counsel.

(b) *Notification by person served.* If any current or former officer, director, employee or agent of the Corporation, or any other person who has custody of exempt records belonging to the FDIC, is served with a subpoena, court order, or other process requiring that person's attendance as a witness concerning any matter related to official duties, or the production of any exempt record of the Corporation, such person shall promptly advise the Office of the Corporation's General Counsel of such service, of the testimony and records described in the subpoena, and of all relevant facts which may be of assistance to the General Counsel in determining whether the individual in question should be authorized to testify or the records should be produced. Such person should also inform the court or tribunal which issued the process and the attorney for the party upon whose application the process was issued, if known, of the substance of this section.

(c) *Appearance by person served.* Absent the written authorization of the Corporation's General Counsel, or designee, to disclose the requested information, any current or former officer, director, employee, or agent of the Corporation, and any other person having custody of exempt records of the Corporation, who is required to respond to a subpoena, court order, or other legal process, shall attend at the time and place therein specified and respectfully decline to produce any such record or give any testimony with respect thereto, basing such refusal on this section.

By Order of the Board of Directors.

Dated at Washington, DC this 27th day of June, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–16329 Filed 7–5–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 234

[Docket 50053]

RIN 2137–AC67

Airline Service Quality Performance Reports

AGENCY: Department of Transportation.

ACTION: Extension of comment period.

SUMMARY: This notice announces that the Bureau of Transportation Statistics is extending from July 5 to August 5, 1995, the deadline for submitting comments to the notice of proposed rulemaking concerning reporting by air carriers concerning their on-time performance.

DATES: Comments are now due August 5, 1995.

ADDRESSES: Comments should be submitted in duplicate to the Docket Clerk, Docket 50053, room PL 401, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4387.

SUPPLEMENTARY INFORMATION: On June 5, 1995 (60 FR 29514), the Office of Airline Statistics, Research and Special Programs Administration of DOT (now the Office of Airline Information, Bureau of Transportation Statistics; see 60 FR 30195, June 8, 1995) published a notice of proposed rulemaking (NPRM) to amend the on-time flight performance reporting requirements. The central issue was whether air carriers should exclude mechanical delays from their on-time performance report. The public was given 30 days to respond to the NPRM.

On June 28, 1995, the Department received three different requests for extension of the comment period. In a letter to Secretary Peña, Senator Mark O. Hatfield asked that the comment period be extended 60 days. He noted that when DOT proposed changes to the on-time report process in the past, the docket was open for substantially longer periods of time. He further stated that the current proposal merits the same type of thoughtful and thorough review by all interested parties.

In a second letter to Secretary Peña, the National Consumers League asked that the comment period be extended for 60 days. It stated that it only recently became aware of the proposed change to exclude mechanical delays and cancellations from the carrier on-time performance ratings. Because on-time performance is now the number one concern of business travelers, the National Consumers League believes the public should be given more time to respond to the rulemaking.

American Airlines, Delta Air Lines, United Airlines and USAir filed a joint submission asking the Department to extend the comment period to September 5, 1995. The joint carriers stated that they need additional time to prepare comments that fully take into account the history of this issue, as well as the merits of the Department's proposal. In addition, they note that we are now entering the peak vacation period and that critical personnel have not been available during the full period between issuance of the NPRM and the current comment closing date.

Two answers were filed opposing the extension. Southwest Airlines stated that the joint carriers failed to provide a credible basis for an extension and criticized the last minute nature of the filing. It stated that the ''peak vacation period'' argument is both unconvincing and irrelevant, and that the carriers are seeking a lengthy extension in order to delay a ruling. They concluded by stating that all parties deserve certainty on this issue instead of an unending period of further debate and skirmishing.

Northwest Airlines strongly opposed the request for extension. It stated that the Department has before it a pressing safety issue that requires immediate action, and that neither procrastination nor vacation schedules should stand in the way of the Department's resolution of this issue.

We are granting a one-month extension. This action serves to facilitate the submission of informed comments, while not unduly delaying the proceeding. DOT believes this action will not prejudice the position of any party.

Issued in Washington on June 30, 1995.

Timothy E. Carmody,

Acting Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 95–16682 Filed 7–3–95; 11:26 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Utah regulatory program (hereinafter, the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Utah's proposed rules pertain to normal husbandry practices and Utah's ''Vegetation Information Guidelines.''

The amendment is intended to improve operational efficiency.

DATES: Written comments must be received by 4 p.m., m.d.t., July 21, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Richard J. Seibel at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Western Regional Coordinating Center.

Richard J. Seibel, Regional Director, Western Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180–1203, Telephone: (801) 538–5340.

FOR FURTHER INFORMATION CONTACT: Richard J. Seibel, Telephone: (303) 672–5501.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated February 6, 1995, Utah submitted a proposed amendment to its program (administrative record No. UT–1025) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah submitted the proposed amendment at its own initiative.

OSM announced receipt of the proposed amendment in the March 15, 1995, **Federal Register** (60 FR 13935), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–1034). Because no one requested a public hearing or meeting, none was held.

The public comment period ended on April 14, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of the Utah Coal Mining Rules at Utah Administrative Rule (Utah Admin. R.) 645–301–357.340, concerning those activities that cause the need for repair of revegetation after phase II bond release that would not restart the liability period; Utah Admin. R. 645–301–357.350, concerning clarification that the rule applies to irrigation of transplanted trees and shrubs that would not restart the liability period; and Appendix C of Utah's ''Vegetation Information Guidelines,'' concerning references to manuals it submitted to support the reestablishment of vegetation after wildfires that would not restart the liability period proposed at Utah Admin. R. 645–301–357.340. OSM notified Utah of the concerns by letter dated May 23, 1995 (administrative record No. UT–1054.

Utah responded in a letter dated June 5, 1995, by submitting a revised amendment (administrative record No. UT–1059). Utah proposes to revise: Utah Admin. R. 645–301–357.340, to include as an activity that would not restart the liability period, repair of revegetation after phase II bond release necessitated by illegal activities, such as vandalism, which are not caused by any lack of planning, design, or implementation of the mining and reclamation plan; Utah Admin. R. 645–301–357.350, to clarify that irrigation of transplanted trees and shrubs would not restart the liability period; and Appendix C of Utah's ''Vegetation Information Guidelines,'' to include references to manuals that support the reestablishment of vegetation after wildfires.

OSM is reopening the comment period on the proposed Utah program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Western Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

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

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

This rule does no contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities.

Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 28, 1995.

James F. Fulton,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 95–16544 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5254–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Delete Brown Wood Preserving Site from the National Priorities List; request for comments.

SUMMARY: The U.S. Environmental Protection Agency (EPA), announces its intent to delete the Brown Wood Preserving Superfund Site (Site) in Live Oak, Suwannee County, Florida, from the National Priorities List (NPL) and requests public comment on this action. The NPL is codified as Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). EPA and the State of Florida (State) have determined that all appropriate responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that the remedial actions conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments on the Notice of Intent to Delete the Site from the NPL should be submitted on or before August 7, 1995.

ADDRESSES: Comments may be mailed to: Joe Franzmathes, Director, Waste Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Comprehensive information on this Site is maintained in the public docket, which is available for viewing at the information repositories in two locations. Requests for appointments or copies of the background information from the public docket should be directed to:

Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Phone: (404) 347–3555, ext. 6217, Hours: 8:00 a.m. to 4:00 p.m., Monday through Friday—By Appointment Only.

Suwannee River Regional Library, 207 Pine Street, Live Oak, Florida 32060, Phone: (904) 362–2317, Hours: 8:30 a.m. to 8:00 p.m., Monday and Thursday; 8:30 a.m. to 5:30 p.m., Tuesday, Wednesday, and Friday; 8:30 a.m.–4:00 p.m., Saturday.

FOR FURTHER INFORMATION CONTACT: Randall Chaffins, U.S. Environmental Protection Agency, Region IV, Waste Management Division, South Superfund Remedial Branch, 345 Courtland Street, N.E. Atlanta, GA 30365, (404) 347–2643 ext. 6260.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA announces its intent to delete the Site from the NPL, which constitutes Appendix B of the NCP, 40 CFR Part 300, and requests comments on this proposed deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the event that conditions at the site warrant such action.

EPA will accept comments concerning this Site for thirty (30) calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether any of the following criteria have been met:

(i) Responsible or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed response under CERCLA has been implemented and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment; and, therefore, taking of remedial measures is not appropriate.

III. Deletion Procedures

EPA will accept and evaluate public comments before making a final decision to delete the Site. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this Site:

(1) EPA has recommended deletion and has prepared the relevant documents.

(2) The State of Florida has concurred with the deletion decision.

(3) Concurrent with this Notice of Intent to Delete, a notice has been published in a local newspaper and has been distributed to appropriate Federal, State, and local officials, and other interested parties.

(4) EPA has made all relevant documents available at the information repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designated primarily for information purposes and to assist EPA management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

The comments received during the public comment period will be evaluated before the final decision to delete the Site. EPA will prepare a Responsiveness Summary, if necessary, which will address the comments received during the public comment period.

A deletion occurs when the Regional Administrator of EPA places a Notice of Deletion in the **Federal Register**. Any deletions from the NPL will be reflected

in the next NPL update. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA.

IV. Basis for Intended Site Deletion

The following Site summary provides the Agency's rationale for the intended deletion of this Site from the NPL.

The Site is located at the intersection of Sawmill Road and Goldkist Road, approximately two (2) miles west of the City of Live Oak, Suwannee County, Florida. The 51 acre Site is situated in the northwest quarter of Section 22, Township 2 South, Range 13 East. The topography on-site varies in elevation from 85 feet above mean sea level to 111 feet above mean sea level. The area surrounding the Site is considered rural and light agricultural. A sawmill and a construction company are located to the west and east of the Site, respectively. The county airport is also located west of the site. Domestic water in the vicinity of the Site is produced by means of wells into the Floridan Aquifer, the closest private well is approximately 1000 feet downgradient, to the south.

Currently, the Site consists of a land treatment area enclosed by a six foot high chain-link fence topped with barbed wire, a lagoon area to the southwest, and a grassed eastern section. The land treatment area consists of an office, a four-acre clay lined and bermed treatment area which has been seeded with native grasses, and a 750,000 gallon capacity retention pond.

The Site was proposed for the NPL in 1982. Two potentially responsible parties (PRPs), the James Graham Brown Foundation and AMAX Environmental Services, presently the Cyprus AMAX Minerals Company, signed an Administrative Order on Consent (AOC) with EPA in September 1983 to conduct a Remedial Investigation/Feasibility Study (RI/FS). From December 1987 through March 1988, while the RI/FS was underway, AMAX/Brown removed the contents of the sludge lagoon during the winter dry season and dismantled the plant facility. EPA approved of AMAX/Brown's proposed activities and began negotiating a Consent Order while the removal proceeded. The Consent Order was completed in January 1988, and the removal activities were completed in March 1988.

The removal activities consisted of the following: removal of approximately 15,000 tons of creosote sediments/sludge; treatment of 200,000 gallons of lagoon water; and the dismantling, decontamination, and disposal of the entire plant facility. The creosote sediments/sludge, which came primarily from the lagoon area, were shipped to the hazardous waste landfill in Emelle, Alabama. The removal cleanup criteria for the contaminated soils was 5,000 mg/kg total creosote substances.

Residents near the Site are generally aware that the Site was a wood treating facility sometime in the past and that it is a hazardous waste site. The administrative record was placed in the information repository in Live Oak, Florida on September 29, 1987. A notice regarding the administrative record and a future public meeting was placed in the local newspaper on October 1, 1987. The public comment period began on November 25, 1987 and ended on December 16, 1987. The public meeting on the RI/FS results and the presentation of the selected remedy took place on December 9, 1987 in Live Oak, Florida. The public meeting was attended by very few local citizens. EPA received no comments from the public on the proposed selected remedy or on any other facet of the project. However, reports from the Florida Department of Environmental Protection's (FDEP's) local liaison and from a local newspaper reporter indicated that the community is pleased that EPA, FDEP and AMAX/Brown moved so rapidly to cleanup the Site.

The Record of Decision (ROD), signed on April 18, 1988, determined cleanup at the Site was needed and determined the selected remedy of sludge treatment and land treatment would adequately protect public health, welfare, and the environment.

During the preparation of the Remedial Design/Remedial Action (RD/RA) Work Plan and the filing of the Consent Decree, a fact sheet and a press release were distributed to the public. The RD/RA Work Plan for the land treatment area was approved September 15, 1988.

The Remedial Action (RA) construction of the land treatment area began in October 1988 and the Consent Decree was entered on October 24, 1988. During RA construction, another fact sheet was generated to explain RA progress at the Site.

After the pre-final RA construction inspection on December 14, 1988, another updated fact sheet was generated and distributed to the public announcing the final RA construction inspection to be held on January 19, 1989. Subsequent to the final inspection, a press release was distributed and the appropriate Congressional members were notified of the pending action. The only comments received were from the Florida Department of Health and Rehabilitative Services and the Suwannee County Coordinator. No local citizens attended the inspection except the Mayor of Live Oak and the Suwannee County Coordinator.

The pre-final RA construction inspection was held on-site on December 14, 1988. The final RA construction inspection meeting was held on-site on January 19, 1989, as required for the approval of the RA Construction Report and subsequent certification of RA construction completion. The RA construction was completed according to the approved design in the RD/RA Work Plan. Upon certification of RA construction completion in April of 1989, Operation and Maintenance (O&M) activities began and continued for five (5) years, as set forth in the ROD and Final Site Closeout Report.

The Final Site Closeout Report was approved by the Regional Administrator of EPA on December 31, 1991. In May 1992, Remediation Technologies, Inc. (RETEC) submitted a Supplemental Risk Assessment for AMAX/Brown to include toxicological information which was not available at the time of the Baseline Risk Assessment. O&M ended with the submittal of the Semi-Annual Status Report in July 1994.

O&M of the source control action involved two (2) years of soil degradation monitoring. A six to eight inch lift of contaminated soil, which had been stockpiled on-site, was added to the land treatment area approximately every three months, until all of the contaminated soil was in the land treatment area. The soils in the land treatment area were monitored and sampled quarterly to determine effectiveness for the remainder of the two (2) year O&M period for soils. At the conclusion of O&M, all soil samples complied with concentrations set forth in the ROD. The O&M for the groundwater began after the certification of RA construction completion in April 1989, and consisted of semi-annual sampling for a period of five (5) years. At the conclusion of O&M, all groundwater samples complied with Federal health-based standards and those set forth in the ROD.

On March 30, 1995, the Five-Year Review Report recommended that the Site be deleted from the NPL since it complies with all deletion requirements.

The results of the five year O&M program show that there are no contaminants of concern existing above health based criteria levels in the soil or groundwater. All aspects of the selected remedy have been implemented and are protective of human health and the

environment. Therefore, no unacceptable health risk is associated with the Site.

EPA, with concurrence of the State, has determined that all appropriate Fund-financed responses under CERCLA at the Site have been completed, and that no further cleanup by responsible parties is appropriate. Therefore, EPA proposes the deletion of the Site from the NPL.

Dated: June 19, 1995.

Patrick M. Tobin,

Acting Regional Administrator, USEPA Region IV.

[FR Doc. 95–16419 Filed 7–5–95; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1160

RIN 3154–AAoo

Indemnities Under the Arts and Artifacts Indemnity Act

AGENCY: Federal Council on the Arts and the Humanities.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking advises the public that the Federal Council on the Arts and the Humanities is proposing to amend the regulations implementing the Arts and Artifacts Indemnity Act, as amended (20 U.S.C. 971–977) (the ''Act''). The principal change is to permit the indemnification of eligible items from the United States while on exhibition in this country in connection with an exhibition of eligible items from outside of the United States. The proposed rule also includes illustrations of exhibitions eligible for indemnification which are intended to provide further guidance to persons considering applying for the indemnification of an international exhibition. The proposed amendment is not intended to bring about a major shift in emphasis of the current policy or practice of the indemnity program.

This notice invites comments on the proposed amendment to the regulations. The Federal Council particularly invites comments from groups, individuals, and governmental agencies involved in the exhibition process, including museums, private insurers, and professional and scholarly organizations. The revised rules will be published in the **Federal Register** and will be included in guideline packages for prospective applicants and in Certificates of Indemnity.

DATES: Comments should be received by August 7, 1995.

ADDRESSES: Interested persons should submit ten copies of their written comments to the Federal Council on the Arts and the Humanities, c/o Alice M. Whelihan, Indemnity Administrator, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Alice Whelihan, 202–682–5442.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Background

In 1975, the United States Congress enacted the Arts and Artifacts Indemnity Act which established an indemnity program administered by the Federal Council on the Arts and the Humanities (the ''Federal Council''). 20 U.S.C. Sections 971–977. The Federal Council is composed of the heads of nineteen federal agencies and was established by Congress, among other things, to coordinate the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services, including the joint support of activities. 20 U.S.C. Section 971.

Under the indemnification program, the United States Government guarantees to pay loss or damage claims, subject to certain limitations, arising out of exhibitions containing items determined by the Federal Council to be of educational, cultural, historical or scientific value the exhibition of which must be certified by the Director of the United States Information Agency as being in the national interest. In order to be eligible for indemnification, the objects must be on exhibition in the United States, or if outside this country preferably as part of an exchange of exhibitions.

B. Legislative History

On May 21, 1975, Senators Claiborne Pell (D, RI) and Jacob Javits (R, NY) introduced the Arts and Artifacts Indemnity Act as an amendment to the reauthorization of the National Foundation on the Arts and Humanities Act of 1965. According to the House Committee report, the purpose of the statute was ''to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.'' [1] The Senate Committee stated that it believed that this purpose could be advanced ''through the exchange of cultural activities and sharing by nations of the world of their cultural institutions and national wealth and treasure.'' [2]

The broad purpose of the Act is echoed throughout the Act's language and legislative history. For example, in testifying at joint hearings before the House Subcommittee on Select Education and the Senate Special Subcommittee on Arts and Humanities, Nancy Hanks, Chairman, National Endowment for the Arts, stated:

> Cultural exhibitions and exchanges of high quality should be encouraged by the laws and policies of the United States Government. They are in the national interest because of the personal, aesthetic, intellectual, and cultural benefits accruing to every man, woman and child of this nation who has the opportunity to experience these beautiful and enlightening presentations. We believe that this country should do as much as any nation in the world to insure that these vitally important programs are strengthened.[3]

There was concern in Congress that such exchanges were impeded by prohibitively high insurance costs. The Senate noted that ''anywhere from half to two-thirds of the cost of an international exhibition is the cost of insuring the material to be exhibited.'' [4] Ronald Berman, Chairman of the Federal Council, testified that without indemnification provided in special legislation enacted by the 93rd Congress, the insurance costs in connection with several widely attended exhibitions would have been prohibitive.[5]

C. Regulatory Background

The Federal Council is the agency charged by Congress with the responsibility to administer the Arts and Artifacts Indemnity Act. In practice, the Indemnity Program is administered for the Federal Council by the Museum Program of the National Endowment for the Arts under the ''Indemnities Under the Arts and Artifacts Indemnity Act'' regulations (the ''Regulations''), which are set forth at 45 CFR Part 1160.

These Regulations have been promulgated, and amended from time to time, by the Federal Council pursuant to the express and implied rulemaking authorities granted by Congress to make and amend rules needed for the effective administration of the indemnity program. Among other things, Congress expressly granted to the Federal Council the authorities to establish the terms and conditions of indemnity agreements; to set

[1] *Id.*

[2] *Id.*

[3] H.R. Rep. No. 680, 94th Cong., 1st Sess., at 5.

[4] S. Rep. No. 289, 94th Cong., 1st Sess., at 1.

[5] H.R. Rep. No. 680, 94th Cong., 1st Sess., at 5.

application procedures; and to establish claim adjustment procedures. 20 U.S.C. Sections 971(a)(2), 973(a), 975(a).

For a number of years, the Federal Council has considered the desirability of amending the Regulations to permit the indemnification of U.S.-owned loans on exhibition in the United States in connection with certified international exhibitions. As currently drafted, the Regulations do not cover domestic objects on loan to an international exhibition in the United States. The Regulations provide, in pertinent part:

> An indemnity agreement made under these regulations shall cover:
> (1) Eligible items from outside the United States while on exhibition in the United States or
> (2) Eligible items from the United States while on exhibition outside this country, preferably when they are part of an exchange of exhibitions. 45 C.F.R. Section 1160.1

On February 25, 1993, during a lengthy discussion of the application of the National Gallery of Art for the indemnification of the exhibition ''Great French Paintings from the Barnes Foundation: Impressionist, Post-Impressionist and Early Modern,'' the Federal Council concluded that the eligibility criteria set forth in the Regulations were more narrowly drawn then required under the Act. While the Council approved the indemnification of the Barnes exhibition, which consisted of one foreign-owned object and 80 domestically owned objects, a Certificate of Indemnity ultimately did not issue because of legal uncertainties related to the Council's action under its current Regulations. To clarify eligibility issues for future actions, the Federal Council voted to amend its regulations.

After extensive discussion of the issue, the Federal Council resolved that the proposed amendment to the Regulations would significantly enhance its ability to provide the American public with the benefits of a high quality program of international exhibitions while not significantly increasing the exposure of the Federal government to pay loss or damage claims nor significantly adding to the administrative burdens or costs of the program.

The Federal Council concluded that widening the eligibility criteria under the Indemnity Program to include coverage of U.S.-owned objects in exhibitions that also include foreign-owned loans would provide an important benefit to U.S. cultural institutions and to the American public. Under the current guidelines, U.S.-owned loans may be indemnified only when exhibited abroad. The Federal Council concluded that if items from abroad are of educational, cultural, historical or scientific value, and their exhibition has been certified by the Director of the United States Information Agency as being in the national interest, thereby making them eligible for indemnification coverage, the U.S.-owned loans to the exhibition also should be eligible for indemnification.

The Federal Council stressed that the proposed amendment is not intended to bring about a major shift in the emphasis of the current policy or practice of the indemnity program. Under the proposed amended Regulations, indemnity coverage would continue to be available primarily for the exhibition of items coming from outside the United States. In determining whether to indemnify international exhibitions that also include U.S. loans, the Federal Council would continue to apply the same general standard of review—whether the exhibition taken as a whole is of educational, cultural, historical or scientific significance. However, to guard against potential abuses, the Federal Council will require that the foreign loans be an integral or essential component of the exhibition. Exhibitions consisting solely of domestic items would continue to be ineligible for indemnification.

The Federal Council concluded that because of the overall statutory cap on the program the proposed modification would not significantly increase the exposure of the Federal government to claims for loss or damage while providing important additional relief for U.S. borrowing institutions. Under the statutory cap, the Federal Council may not issue indemnity agreements covering losses of more than an aggregate of $3,000,000,000 at any one time. The cap—and thereby the total government exposure—remains the same whether the indemnity agreements cover foreign or domestic content. Moreover, the fact that coverage during international transit, the time of the greatest risk, would not be required for loans from the U.S. lending institutions greatly reduces the risk of additional losses.

The Federal Council further concluded that the proposed amendment would not cause a significant increase in either the number applications to the program or the administrative burdens associated with applying reviewing indemnification applications. This is the case because under the current practice, applicants already are required to include information on domestic loans in their applications, and indemnity panels consider the educational, cultural, historical or scientific value of both the domestic and foreign items in determining whether to indemnify an exhibition.

While the need to determine whether indemnification of the domestic content is appropriate would require an additional judgment made by the Federal Council, it is similar in character to the determinations already made by the Federal Council in determining the appropriateness of indemnification of foreign content moreover, the same options for technical assistance and resubmission would be available for the rejected applicant as are currently available.

On June 16, 1993, on the basis of these conclusions, the Federal Council reaffirmed its vote of February 25, 1993 to amend the Regulations to permit the coverage of domestic items in connection with international exhibitions in the United States. Specifically, the Federal Council approved a motion to promulgate regulations revising 45 CFR Part 1160.1 (''Purpose and Scope'') by adding the following language:

> (3) eligible items from the United States while on exhibition in the United States if the exhibition includes other eligible items from outside the United States.

On April 6, 1994, the Federal Council published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) regarding the indemnification of eligible items from the United States while on exhibition in this country in connection with an exhibition of items from outside the United States. 59 FR 16162–64, April 6, 1994.

II. Discussion of Comments Received

In response to the ANPR, the Federal Council received thirty-four (34) comments. Thirty-one (31) comments were received from representatives of museums and galleries, both public and private, two comments were received from representatives of museum service organizations, and one comment was received from a federal agency. The museums submitting comments are located in fifteen states and the District of Columbia.

The vast majority of the commenters strongly supported the Federal Council's proposal to extend indemnification to eligible items from the United States while on exhibition in this country in connection with an exhibition of foreign-owned items. While the public comments include a broad range of issues, they can be

summarized under six general topics: (1) Scope of coverage of the proposed amendments, (2) organizing international exhibitions, (3) benefits to the museum community, (4) benefits to the public, (5) further guidance on eligibility, and (6) the role of the United States Information Agency.

(1) Scope of Coverage of Proposed Amendments

Two commenters requested that the Federal Council consider extending the proposed changes to the indemnity program to include indemnification of exhibitions even where there is no foreign loans, so-called ''full domestic indemnity.'' The Federal Council decided against pursuing full domestic indemnity at this time for a number of reasons. The principal reason involves the availability of administrative resources. Under a full domestic indemnity program, the Federal Council anticipates a dramatic increase the number of eligible exhibitions and, thereby, the number of applicants. Such an increase could not be accommodated by the resources currently available for the administration of the indemnity program.

(2) Organizing International Exhibitions

A number of commenters noted that the ''internationalization'' of collecting and exhibiting works of art has greatly increased. This trend, in the words of one museum director, has greatly increased the likelihood that ''major works by artists outside the United States will be owned by major museums and private collectors in the U.S.'' These commenters believed that indemnifying foreign works owned by American museums was consistent with the goals of the indemnity program to provide the public access to high quality international exhibitions. Further, some commenters suggested that it may be necessary to include items owned by U.S. institutions in order to organize a comprehensive international exhibition. Another commenter described how the proposed amendment might facilitate organizing international exhibitions: ''[B]y securing fine domestic loans, potential foreign lenders are encouraged to lend their works of art.''

(3) Benefits to U.S. Museums

Several commenters noted the proposed change would result in significant savings for American museums and galleries which are currently required to obtain private insurance for U.S. loans in connection with an indemnified international exhibition. At least two commenters stated that this benefit would come at little or no cost to the taxpayers because technological advances are making the preservation and transportation of art safer, thereby further reducing the already extremely low risk of claims. According to some commenters, the proposed change would not impose new administrative burdens on applicants because, under current guidelines, all applicants already must submit detailed information on both foreign and domestic loans. Under the current system, many commenters noted, museums often must expend scarce resources to prepare the same documentation for the Federal Council and private insurers.

(4) Benefits to the Public

A few commenters anticipated that the change in the Regulations would improve the quality of the exhibitions available to the public. One commenter said that allowing the indemnification of limited domestic content would remove any incentive for curators to choose an inferior foreign-owned work over a superior U.S.-owned work in order to effect a savings in insurance premiums. Thus, according to this commenter, the proposed amendment would have the added benefit of helping to ensure that all items selected for exhibition were chosen solely on the basis of educational, cultural, historical or scientific significance. Another museum director pointed out that providing limited domestic content indemnification would bring the United States closer to conformity with a number of other countries, such as Great Britain, which provide full domestic indemnification.

(5) Further Guidance on Eligibility Criterion

While a number of commenters were able to identify examples of exhibitions which, in all likelihood, would have qualified for indemnification under the revised rules, two commenters suggested the need for providing further guidance to persons considering applying for the indemnification of an international exhibition under the new eligibility criterion. Specifically, one commenter felt that the Federal Council should clarify the amount and/or character of the domestic items in an international exhibition that would be appropriate for indemnification under the amended Regulations. Another commenter stated that, without any additional guidance, the only exhibitions that would appear to be ineligible for indemnification would be those that do not include a single foreign-owned work. While this commenter did not propose any specific changes, another suggested specifying that only exhibitions which contain a ''majority'' of foreign-owned works would be eligible.

The Federal Council considered at length the question of whether to incorporate a strict percentage test within the new eligibility criterion. The Federal Council decided not to incorporate such a percentage test in the proposed rule. While the Federal Council acknowledges that a number of commenters believe that the proposed eligibility standard as published in the ANPR may be too nebulous, the Council felt strongly that adopting a rigid percentage test for domestic content in international exhibitions would prove to be too inflexible a tool to carry out the broad objectives of the statute.

At the same time, the Federal Council recognized that the proposed amendment, as published in the ANPR, may not provide sufficient guidance regarding the eligibility for indemnification of international exhibitions that incorporate U.S. loans. Accordingly, the eligibility criterion for such exhibitions published in this notice has been revised to provide that the foreign loans must be an integral or essential component of the exhibition as a whole. Put another way, the foreign loans must be necessary to accomplish the educational, cultural, historical or scientific objectives of the exhibition. A number of examples are included to clarify the application of this standard by the Federal Council. These examples are included solely for the purpose of providing general guidance, and applicants seeking advice with respect to specific exhibitions are encouraged to consult directly with the Administrator of the Indemnities Program early in the planning process.

(6) United States Information Agency

The United States Information Agency (''USIA'') commented that it had no objection in principle to extending indemnification to eligible items from the United States while on exhibition in this country in connection with foreign items if indemnifying such objects would not adversely effect the ability of the Federal Council to indemnify the foreign works. However, USIA questioned whether the Arts and Artifacts Indemnity Act permitted the Federal Council to enter into indemnity agreements for such exhibitions and the USIA to issue national interest certifications in connection with such exhibitions. After extensive discussions between the USIA and the Federal Council, USIA ultimately concluded that there was a reasonable basis for the Federal Council's position and that it

would defer to the Federal Council's interpretation of the Act. USIA also stated that it would issue national interest certifications consistent with its statutory responsibilities and the amended Regulations.

III. Section-by-Section Analysis

Section 1160.1 Purpose and Scope

The eligibility criteria, which currently appear in subparagraph (a) of Section 1160.1, have been moved to a new Section 1160.4. This change has been made because the Federal Council believed that the revised eligibility standards could be more accurately addressed and more easily located within a new, separate section rather than within the existing scope and purpose section.

Section 1160.4 Eligibility

Subparagraphs (a) and (b) are identical to the paragraphs as they appeared in the prior § 1160.1. Subparagraph (c), and the examples that follow, are new. As discussed more fully above, the proposed amendment would permit the indemnification of U.S. loans in connection with an international exhibition. The examples that follow are intended solely to provide general guidance to applicants regarding the scope of the proposed eligibility standard. However, the Federal Council will continue its practice of determining the eligibility for indemnification of specific exhibitions on the basis of a case-by-case review by an expert Indemnity Panel.

In general, coverage is available primarily for the exhibition of items coming from outside the United States. Under the proposed amendment, some items from the United States in such exhibitions may also be eligible for indemnification. For exhibitions in which items from outside the United States appear to have been included merely to obtain insurance relief for an exhibition consisting predominantly of items from the United States, coverage will be denied. In all cases, the foreign loans must be an integral or essential component of the exhibition as a whole.

IV. Regulatory Analyses

This rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 20, 1993.

As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

The Catalogue of Federal Domestic Assistance number for the Arts and Artifacts Indemnity Program is 45–201.

List of Subjects in 45 CFR Part 1160

Indemnity payments, National Foundation on Arts and Humanities.

For the Federal Council on the Arts and the Humanities.

Michael S. Shapiro,

Counsel to the Federal Council on the Arts and the Humanities.

For the reasons set forth in the preamble, 45 CFR Part 1160 is proposed to be amended as follows:

PART 1160—INDEMNITIES UNDER THE ARTS AND ARTIFACTS INDEMNITY ACT

1. The authority citation for part 1160 continues to read as follows:

Authority: 20 U.S.C. 971–977.

2. Section 1160.1 is amended by revising paragraph (a) as follows:

§ 1160.1 Purpose and scope.

(a) This part sets forth the exhibition indemnity procedures of the Federal Council on the Arts and Humanities under the Arts and Artifacts Indemnity Act (Pub. L. 94–158) as required by section 2(a)(2) of the Act.

* * * * *

§§ 1160.4–1160.11 [Redesignated as §§ 1160.5–1160.12]

3. Sections 1160.4 through 1160.11 are redesignated as §§ 1160.5 through 1160.12 and a new § 1160.4 is added to read as follows:

§ 1160.4 Eligibility.

An indemnity agreement made under this part shall cover:

(a) Eligible items from outside the United States while on exhibition in the United States;

(b) Eligible items from the United States while on exhibition outside this country, preferably when they are part of an exchange of exhibitions; and

(c) Eligible items from the United States while on exhibition in the United States, in connection with other eligible items from outside the United States which are integral to the exhibition as a whole.

Example 1: Museum A, an American art museum, is organizing a retrospective exhibition which will include more than 150 works of art by the Impressionist painter Auguste Renoir. The exhibition will present the full range of Renoir's production for the first time ever in an American museum. Museums B and C, large national museums in Paris and London, have agreed to lend 125 major works of art illustrating every aspect of Renoir's career. Museum A is also planning to include related works from other American public and private collections which have not been seen together since the artist's death in 1919. Museums D and E, major each coast American art museums, have agreed to lend 25 masterworks by Renoir. The exhibition will open in Chicago and travel to San Francisco and Washington.

Discussion: Example 1 is a straightforward application of the amended indemnity regulations. Under the old regulations, only the works of art from Museums B and C, the foreign museums, would have been eligible for indemnification. Under the proposed Regulations, the works of art from American museums and other public and private collections also would be eligible for indemnification. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and whether the foreign loans are integral to the educational, cultural, historical or scientific significance of the exhibition. In this example, the Federal Council would likely approve indemnification of the entire exhibit.

Example 2: Museum A in Massachusetts is organizing an exhibition celebrating 250 Years of Decorative Arts in America, to be held in conjunction with the state's celebration of the millennium. Included among the objects to be borrowed from museums and historical societies in the United States are furniture, textiles, metalwork, ceramics, glass and jewelry, illustrating the best examples of American design from colonial times to the present. The curator traveled abroad recently and saw an exhibition of American quilts which have been acquired by a British decorative arts museum. He intends to borrow several of the quilts for the exhibition.

Discussion: Example 2 raises the question as to whether the American museum organizing the exhibition has included the British-owned American quilts merely to obtain insurance relief. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and whether the foreign loans are integral to achieving its educational, cultural and historical purposes. Here, it is likely that the Federal Council will conclude that the foreign works are not an essential component of the exhibition. The Federal Council also may seek additional information from the applicant to determine whether the objectives of the exhibition could have been accomplished as satisfactorily by borrowing American quilts from U.S. collections. On these facts, the Federal Council in all likelihood would deny indemnification for the entire exhibition.

Example 3: Museum A, an American museum, is organizing an exhibition of the works of James Watkins, a nineteenth century American painter, focusing on his studies of human anatomy. Museum A has the foremost collection of preparatory drawings related to Watkins' major painting, ''The Surgeon and His Students.'' The painting is in the permanent collection of Museum B, located in the south of France, which has agreed to lend the painting for the exhibition. The exhibition will be shown at Museum B after the U.S. tour. American Universities, C and D, have also agreed to lend anatomical illustrations and drawings which show Watkins' development as a draughtsman. The exhibition and accompanying catalogue are

expected to shed new light on Watkins contributions to art and scientific history.

Discussion: Example 3 addresses the issue of whether the Federal Council will indemnify an exhibition even where the U.S. objects outnumber the foreign works. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and the relationship of the foreign loans to the educational, cultural, historical and scientific significance of the exhibition. In this example, the exhibition promises to make import ant contributions not only to the history of art but also to the history of science. While there is only a single foreign work of art, it is clearly an essential component of the exhibition as a whole. The case for indemnification of the entire exhibition is further strengthened by the fact that a foreign masterpiece, which is closely related to the preparatory drawings and anatomical illustrations and drawings owned by American institutions, will be made available to the American public. Thus, the mere fact that the U.S. loans outnumber the foreign works will not in itself disqualify the entire exhibition for indemnification.

[FR Doc. 95–16548 Filed 7–5–95; 8:45 am]

BILLING CODE 7536–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15

[DA 95–1415]

Request for Supplemental Comments

AGENCY: Federal Communications Commission.

ACTION: Supplemental proposed rule.

SUMMARY: The FCC has proposed, in ET Docket No. 94–124 (59 FR 61304, November 30, 1994), that certain frequency bands above 40 GHz be opened for commercial development and use. The Commission is seeking comments on the desirability and feasibility of harmonizing the FCC's proposal in ET Docket No. 94–124 and the European frequency allocation table. This action follows recent international meetings and is taken in order to obtain additional information for the record of ET Docket No. 94–124.

DATES: Comments may be filed on or before July 28, 1995. Replies may be filed on or before August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Engelman, Office of Engineering and Technology, (202) 776–1626.

SUPPLEMENTARY INFORMATION: A copy of the European frequency allocation table for frequencies above 40 GHz has been placed in the record of ET Docket No. 94–124. Copies of the information filed in ET Docket No. 94–124 are available from the FCC's copy contractor: International Transcription Service, Inc., (202) 857–3800. Copies of ERC Report 25, which contains the complete European frequency allocation table from 960 MHz to 105 GHz, may be obtained from the ERC's permanent European Radiocommunications Office, Holsteinsgade 63, DK–2100 Copenhagen, Denmark (telephone +45 35 43 24 42, fax +45 35 43 35 14). In addition, comments on the European frequency allocation table may be filed with the European Radiocommunications Office. A copy of a presentation from the Japanese government also has been inserted in the record of ET Docket 94–124. Parties interested in the Japanese standards may contact RCR at Bansui Bldg., 1–5–16, Toranomon, Minato-ku, Tokyo 105, Japan (telephone +81 3 3592 1101, fax +81 3 3592 1103).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–16070 Filed 7–5–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 25 and 87

[IB Docket No. 95–91; GEN Docket No. 90–357; PP–24; PP–85; PP–87; FCC 95–229]

Digital Audio Radio Service in the 2310–2360 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has proposed rules and policies to establish service and licensing rules for the Digital Audio Radio Service in the 2310–2360 MHz frequency bands. We request comment on issues that include how many licenses should be awarded; how much spectrum each licensee should be assigned; how licensees should be selected if mutually exclusive applications are filed; whether applications already pending before the Commission should receive special consideration; how those licensees should be classified; whether licensees should be permitted to use some of their spectrum for non-DARS services; how satellite DARS will impact terrestrial radio broadcasting; and what rules should govern the operation of DARS transmissions to ensure service to the public and to prevent interference to competitors and other services.

DATES: Comments are due by September 15, 1995; reply comments are due by October 13, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, International Bureau, Satellite and Radiocommunication Division, Satellite Policy Branch, (202) 739–0730, or Ron Repasi, International Bureau, Satellite and Radiocommunication Division, Satellite Engineering Branch, (202) 739–0749.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* in IB Docket No. 95–91; FCC 95–229, adopted June 14, 1995 and released June 15, 1995. The complete text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

In 1990, Satellite CD Radio (CD Radio) filed a Petition for Rulemaking to allocate spectrum for a Digital Audio Radio Service (DARS). In February 1992, the World Administrative Radio Conference (WARC 92) adopted international frequency allocations for satellite digital audio broadcasting. Domestic allocations were proposed in 1992 (*see* Notice of Proposed Rulemaking and Further Notice of Inquiry, 57 FR 57049 (Dec. 2, 1992)) and adopted in 1995 (*see* Amendment of the Commission's Rules with Regard to the Establishment and Regulation of New Digital Audio Radio Services, 60 FR 8309 (Feb. 14, 1995) (*Allocation Order*)).

In 1990, CD Radio filed an application to provide a digital audio radio service by satellite. Following the *Allocation NPRM*, the Commission established a December 15, 1992 cut-off date for applications proposing satellite DARS to be considered in conjunction with CD Radio's application. There remains a pool of four applicants consisting CD Radio, Primosphere Limited Partnership, Digital Satellite Broadcasting Corporation, and American Mobile Radio Corporation.

In the *Allocation Order*, we indicated that this rulemaking would be initiated to address the implementation of satellite DARS. We have, therefore, proposed rules and policies to establish service and licensing rules for the Digital Audio Radio Service in the 2310–2360 MHz frequency bands. We request comment on issues that include how many licenses should be awarded;

how much spectrum each licensee should be assigned; how licensees should be selected if mutually exclusive applications are filed; whether applications already pending before the Commission should receive special consideration; how those licensees should be classified; whether licensees should be permitted to use some of their spectrum for non-DARS services; how this service would impact terrestrial radio broadcasting; and what rules should govern the operation of DARS transmissions to ensure service to the public and to prevent interference to competitors and other services. We also request comment on the pioneer's preference requests filed by three of the current applicants.

In addition to the rule changes being proposed for Part 25, we are proposing to modify Section 87.303(d)(1) concerning frequency use in Aviation Services. We seek comment on this proposal and on any additional modifications to Part 87 that may be necessary.

We conclude that the proposals set forth in this NPRM will facilitate the implementation of DARS in the United States. We seek comment on all aspects of these service rules and anticipate an extensive record on which to base decisions on final regulations.

Ordering Clauses

Accordingly, it is ordered that, pursuant to sections 1, 4(i), 4(j), 7, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and 154(j), 157, and 309(j), notice is hereby given of the proposed amendments to Parts 25 and 87 of the Commission's Rules, 47 CFR Parts 25 and 87, in accordance with the proposals in this Notice of Proposed Rulemaking, and the comment is sought regarding such proposals.

It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq* (1981).

Administrative Matters

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a). The individual satellite DARS applications and pioneer's preference proceedings are restricted proceedings, to the extent that any party has formally opposed an application or pioneer's preference request. *Ex parte* presentations concerning any formally opposed application or request are prohibited. *See* 47 CFR § 1.1208.

Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before *September 15, 1995* and reply comments on or before *October 13, 1995*. To file formally in this proceeding, parties must file an original and five copies of all comments, reply comments, and supporting comments. If parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, room 239. For further information contact Rosalee Chiara or Ron Repasi at (202) 739–0735. Parties filing comments on the pioneer's preferences requests must file comments separate from those on the rules proposed in this notice and reference both the file numbers and the General Docket No. 90–357. For further information on pioneer's preference requests contact Rodney Small at (202) 776–1622.

Initial Regulatory Flexibility Act Statement

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix III. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Analysis.

List of Subjects

47 CFR Part 25

Satellites.

47 CFR Part 87

Air transportation.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Parts 25 and 87 of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: Sections. 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744, Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303.

2. Section 25.114 is amended by revising paragraph (c)(18), or read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(18) Detailed information demonstrating the financial qualifications of the applicant to construct and launch the proposed satellites. Applications for domestic fixed-satellite systems and mobile-satellite systems shall provide the financial information required by § 25.140(b) through (e), § 25.142(a)(4), or § 25.143(b)(3), as appropriate.

Applciations for satellite DARS systems shall comply with the requirements of § 25.144(b)(3). Applications for international satellite systems authorized pursuant to Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985), *recon*, 61 RR 2d 649 (1986), *further recon*. FCC Rcd 439 (1986), shall provide the information required by that decision.

* * * * *

3. A new § 25.144 is added to read as follows:

§ 25.144 Licensing provisions for the 2.3 GHz satellite digital audio radio service.

(a) Definitions:

(1) *System*. The term *System* refers to the constellation of one or more satellite DARS space stations, the feeder link earth station(s), and the mobile, fixed and/or portable receivers.

(2) *Allocated bandwidth*. The term *allcoated bandwidth* refers to the entry in the Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunciation services or the radio astronomy service under

specified conditions. This term shall be applied to the 2310–2360 MHz band for satellite DARS.

(3) *Frequency Assignment.* The term *frequency assignment* refers to the authorization given by the Commission for a radio station to use a radio frequency or radio frequency channel under specified conditions.

(b) *Qualification requirements.* (1) *General requirements.* Each application for a system authorization in the satellite digital audio radio service in the 2310–2360 MHz band shall describe in detail the proposed satellite digital audio radio system, setting forth all pertinent technical and operational aspects of the systems, and the technical, legal, and financial qualifications of the applicant. In particular, satellite DARS applicants must file information demonstrating compliance with § 25.114 and all of the requirements of this section.

(2) *Technical qualifications.* In addition to the information specified in paragraph (b)(1) of this section, each applicant shall:

(i) Identify the service link margin of its satellite DARS system and demonstrate that its system will, in a mobile environment under clear sky conditions, provide that service link margin to the geographical areas it intends to serve;

(ii) Demonstrate that its satellite DARS system is capable of remotely tuning its individual mobile, fixed, and/or portable receivers across the allocated bandwidth 2310–2360 MHz and demonstrate how it will implement the forward signalling command for its receivers to select and tune to any center frequency(ies) in the allocated bandwidth; and

(iii) Identify the coding scheme and coding rate it will use to transmit CD quality audio. If applicable, the applicant shall identify any other audio format(s) it will provide to its end users as well as their associated coding scheme and coding rates. If audio formats which are less than CD quality will be provided, it shall demonstrate that it is capable of transmitting those audio formats at variable data rates which are less than those necessary to produce CD quality audio.

(3) *Financial qualifications.* (i) Each applicant for a space station system authorization in the 2.3 GHz satellite digital audio radio service must demonstrate, on the basis of a detailed business plan, how it proposes to meet the estimated costs of the construction and launch of its proposed space station(s) and the estimated operating expenses for one year after the launch of its space station(s).

(ii) Within one year of license grant, licensees are required to demonstrate full financing of their systems in the form specified in § 25.140 (c) and (d). In addition, applicants relying on current assets or operating income must submit evidence of a management commitment to the proposed satellite system. Failure to make such a showing will result in the dismissal of the application.

(c) *Milestone requirements.* Each applicant for system authorization in the satellite digital audio radio service must demonstrate within 10 days after a required implementation milestone as specified in the system authorization, and on the basis of the documentation contained in its application, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. This showing shall include all information described in § 25.140 (c), (d) and (e). The satellite DARS milestones are as follows, based on the date of authorization:

(1) One year: Complete contracting for construction of first space station or begin space station construction.

(2) Two years: If applied for, complete contracting for construction of second space station or begin second space station construction.

(3) Four years: In orbit operation of at least one space station.

(4) Six years: Full operation of the satellite system.

(d) *Reporting requirements.* All operators of satellite digital audio radio service systems, shall, on June 30 of each year, file a report with the International Bureau and the Commission's Laurel, Maryland field office containing the following information:

(1) Status of space station construction and anticipated launch date, including any major problems or delay encountered;

(2) A listing of any non-scheduled space station outages for more than thirty minutes and the cause(s) of such outages; and

(3) Identification of any space station(s) not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

4. Section 25.201 is amended by adding the definition for Satellite Digital Audio Radio Service (DARS) in alphabetical order to read as follows:

§ 25.201 Definitions.

* * * * *

Satellite Digital Audio Radio Service (DARS). A radiocommunication service in which compact disc quality audio programming is digitally transmitted by one or more space stations directly to fixed, mobile, and/or portable stations.

* * * * *

5. Section 25.202 is amended by adding a new paragraph (a)(6), as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) * * *

(6) The following frequencies are available for use by the satellite digital audio radio service:

2310–2360 MHz: space-to-Earth (primary)

* * * * *

6. A new § 25.214 is added to read as follows:

§ 25.214 Technical requirements for space stations in the satellite digital audio radio service.

(a) Each system authorized under this section will be conditioned upon construction, launch and operation milestones as outlined in § 25.144(c). The failure to meet any of the milestones contained in an authorization will result in its cancellation, unless such failure is due to circumstances beyond the licensee's control or unless otherwise determined by the Commission upon proper showing by the licensee in any particular case.

(b) Frequency assignments will be made for each satellite DARS system as follows:

(1) All licensees are limited to the allocated bandwidth of 2310–2360 MHz.

(2) [Subject to Decision—Band Segments]

(3) [Subject to Decision—Frequency Assignments]

(4) Each satellite DARS licensee shall reduce its assigned bandwidth occupancy by 0.1 MHz to create two (2) 0.2 MHz assignments adjacent to the edge of the allocated bandwidth for location of telemetry beacons.

(5) Each licensee may employ cross polarization within its exclusive frequency assignment and/or may employ cross polarized transmissions in frequency assignments of other satellite DARS licensees under mutual agreement with those licensees. Licensees who come to mutual agreement to use cross-polarized transmissions shall apply to the

Commission for approval of the agreement before coordination is initiated with other administrations by the licensee of the exclusive frequency assignment.

PART 87—AVIATION SERVICES

1. The authority citation in part 87 continues to read:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Paragraph (d)(1) of § 87.303 is revised to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2390 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major components. The bands 1525–1535 MHz and 2310–2360 MHz are also available for these purposes on a secondary basis. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the earth's atmosphere as well as any incidental orbiting prior to reentry of manned or unmanned objects undergoing flight tests. In the 1435–1530 MHz band, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. In the 2360–2390 MHz band, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In 2310–2390 MHz band, all other telemetry and telecommand uses are secondary.

* * * * *

[FR Doc. 95–16069 Filed 7–5–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–21, Notice 10]

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This notice denies a petition for reconsideration submitted by Thomas Built Buses, Inc. (Thomas), requesting NHTSA to delay the effective date of certain provisions of the final rule of November 2, 1992. In that rule, NHTSA revised the minimum requirements for school bus emergency exits and specified improved access to school bus emergency doors, effective May 2, 1994.

Due to a misunderstanding within the industry about the term ''daylight opening'' in the 1992 rule, NHTSA published a final rule dated May 4, 1994 delaying implementation of the new requirements by four months, i.e., until September 1, 1994.

NHTSA has decided to deny Thomas' petition because the relief sought by the petitioner was, in effect, granted by a May 1995 final rule issued by the agency. That final rule replaced the new requirements with charts specifying the number of required school bus emergency exits based on seating capacity.

FOR FURTHER INFORMATION CONTACT: Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5320, Washington, DC 20590. Telephone (202) 366–0247.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 1992, NHTSA published a final rule adding several requirements to Federal Motor Vehicle Safety Standard (Standard) No. 217, *Bus emergency exits and window retention and release,* 57 FR 49413). The effective date of the new requirements was specified as May 2, 1994.

That final rule retained the requirement that all school buses have either a rear emergency door of specified dimensions or a left-side emergency door and a push-out rear window, at the option of the manufacturer. The rule added a requirement that, among other things, the total area in square centimeters of emergency exits on school buses must collectively amount to at least 432 times the number of designated seating positions on the bus. The rule also provided that the front service door area and the previously required emergency exits are to be counted toward meeting the total emergency exit area requirement. If those areas are insufficient to meet the total emergency exit area requirement, manufacturers must provide additional exits as specified in the rule.

The rule specified that each exit was to be credited with the amount of area equal to its ''daylight opening.'' That term was defined in the rule as ''the maximum unobstructed opening of an emergency exit when viewed from a direction perpendicular to the plane of the opening.'' The preamble to the final rule did not include a further discussion of what might constitute an obstruction.

On December 3, 1992 Blue Bird petitioned for reconsideration of the November 2, 1992 final rule, arguing that the final rule failed to make school bus emergency exit requirements equivalent to non-school bus emergency exit requirements. In response to that petition and an earlier (February 1992) Blue Bird petition for rulemaking concerning sliding exit windows and the use of windows instead of other types of exits, the agency issued a Notice of Proposed Rulemaking (NPRM) on December 1, 1993 (58 FR 63321). The notice proposed to permit the installation of emergency exit windows other than pushout windows, and to allow manufacturers the option of installing either two sliding emergency exit windows or a side emergency exit door as the first means of providing the additional emergency exits on school buses. In addition, the NPRM proposed two alternate means of determining the maximum amount of area that could be credited for all types of emergency exits on school buses, and that school bus additional emergency exit requirements be expressed in the form of tables.

On January 8, 1994, Wayne Wheeled Vehicles (Wayne) requested clarification of the terms ''daylight opening'' and ''unobstructed opening.'' On March 24, 1994, NHTSA replied, in pertinent part:

> [A]n obstruction in this context [daylight opening] would include any obstacle or object that would block, obscure, or interfere with, in any way, access to that exit when opened. In determining the maximum unobstructed opening of any emergency exit, we would subtract, from the total area of the opening, the area of any portions of the opening that cannot be used for exit purposes as a result of the obstruction.

Both Blue Bird and Thomas objected to that interpretation and by letters to the agency dated April 20 and April 27, 1994, respectively, requested that NHTSA delay the effective date of the new requirements. Thomas requested a delay pending the issuance of additional interpretations as applied to other emergency exits. Blue Bird requested a delay until September 1, 1994, or alternatively, until issuance of a final rule basing the number of exits on seating capacity, thereby rendering ''daylight opening'' irrelevant.

NHTSA concluded that the term ''daylight opening'' had been arguably ambiguous prior to the Wayne interpretation. Therefore, by final rule dated May 4, 1994 (59 FR 22997), the agency allowed manufacturers the option of complying with the clarified new requirements or continuing to comply with the previous emergency exit requirements of the standard, that is, a rear emergency exit door or a left side emergency exit door and a rear pushout window, until September 1, 1994.

The Petition

Thomas' petition for reconsideration expressed concern about NHTSA's response of April 1, 1994 to an earlier Thomas request for an interpretation of what constitutes an obstruction and how close to the door an object must be to be considered an obstruction. NHTSA responded by referring Thomas to the Wayne interpretation. Thomas argued in its petition that although the Wayne interpretation may have answered Wayne's questions, Thomas was still unable to calculate ''daylight opening'' and was still unable to determine the number of required emergency exits for each vehicle.

In its petition, Thomas stated that since its rear emergency doors and pushout windows satisfy the requirements of S5.4 regarding the passage of a parallelepiped and ellipsoid respectively, Thomas should be able to regard those exits as unobstructed and thus credit the full area of those openings. Following the same reasoning, Thomas suggested that it should be allowed to credit the full area of its front service door. Under the Wayne interpretation, however, Thomas stated that its 45 inch by 24 inch side emergency exit door would be credited by NHTSA as only a 45 by 12-inch opening.[1]

Thomas stated that because of the requirement for a 12 inch aisle leading to a side door exit, a 32 inch door is now more common than the 24 inch door. The wider door provides more space between the front of the seat back and the front vertical side of the door opening. Thomas asserted that additional space is sufficient to provide usable exit area. Thomas argued that since NHTSA recognizes that pushout windows that can accommodate an ellipsoid are useful emergency exits, NHTSA ought to give credit for areas of door openings that can also accommodate the ellipsoid. Thomas argued that if an area such as the area between the front of the seat back and the forward vertical edge of a 32 inch doorway will accommodate an ellipsoid, the agency should consider that area as usable exit space also.

Finally, Thomas argued that one of the shortcomings in the November 1992 final rule was that the number of capacity-based emergency exits required by that rule differs between manufacturers because differences in manufacturers' door sizes and designs result in differences in their calculations of the amount of ''daylight opening.'' Thomas asserted that the Wayne interpretation injected another variable into that calculation. Therefore, because of its continuing uncertainty in calculating ''daylight opening'' and determining the proper number of emergency exits, Thomas recommended that NHTSA do one of the following:

1. Define the parameters for determining whether a portion of an exit can be regarded as usable exit space, and thus counted toward the total required amount of exit space;

2. Specify minimum exit sizes and replace the new exit requirements with a chart specifying the number of required school bus emergency exits based on seating capacity; or

3. Delay the new requirements until NHTSA issues a final rule adopting one the agency's December 1, 1993 proposals for limiting the amount of area that can be credited to an exit and adopts the same type of chart mentioned in the second recommendation.

Agency Response to the Petition

Thomas' petition, submitted to NHTSA on June 1, 1994, was styled as a petition for reconsideration of the May 4, 1994 final rule which extended the effective date of the emergency exit requirements of the November 2, 1992 final rule. The arguments set forth in the petition, however, only addressed the issue of ''daylight opening'' and purported to explain why the Wayne interpretation was wrong or at least inadequate to address Thomas' concerns. NHTSA believes, therefore, that the Thomas petition, rather than asking NHTSA to reconsider the agency's extension of the effective date of the new emergency exit requirements, is in reality a request for further interpretation of ''daylight opening.''

Regardless of whether Thomas' submission can be properly regarded as a petition for reconsideration, the relief sought by Thomas has, in effect, already been granted. On May 9, 1995 (60 FR 24562) the agency published a final rule amending Standard No. 217 in accordance with the proposals in the December 1, 1993 NPRM. In addition to amending the requirements concerning the use of exit windows in lieu of doors and the requirements for non-school buses, the final rule also deleted the term ''daylight opening.'' That deletion eliminated the need to calculate the daylight opening area of each exit to determine the number of additional emergency exits required for a school bus of a given capacity. In addition, the final rule specified minimum sizes of required emergency exits and set out the required number of emergency exits in the form of tables.

Since the relief sought by Thomas has already been granted, its petition for reconsideration is denied.

Authority: 49 U.S.C. 322, 30111, and 30162; delegation of authority at 49 CFR 1.50.

Issued on June 29, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–16480 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–59–P

[1] In the Wayne interpretation, NHTSA stated that if a side emergency exit door were partially obstructed by a seat, the area behind the seat bounded by the sides of the opening, a horizontal line tangent to the top of the seat back, and a vertical line tangent to the rearmost portion of the top of the seat back would be subtracted from the total area of the opening in determining the ''maximum unobstructed opening'' of the exit.

Notices

Federal Register

Vol. 60, No. 129

Thursday, July 6, 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

Animal and Plant Health Inspection Service

[Docket No. 95–030–2]

Public Meeting; Veterinary Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This is the second notice to producers of veterinary biologics and other interested persons that we are holding a sixth annual public meeting to discuss current regulatory and policy issues related to the manufacture, distribution, and use of veterinary biological products. The agenda includes but is not limited to program updates; trade agreements; risk assessments; electronic transmission of documents; poultry issues; international harmonization; quality assurance for veterinary biologics; diagnostic kits; market suspensions; requalification of references; program issues; informal meetings; and open discussion for presentation of questions and comments by attendees.

PLACE, DATES, AND TIMES OF MEETING: The sixth annual public meeting will be held in the Scheman Building at the Iowa State Center, Ames, IA, on Tuesday and Wednesday, August 1 and 2, 1995, from approximately 8 a.m. to 5 p.m., each day.

FOR FURTHER INFORMATION CONTACT: Registration and housing: Ms. Kay Wessman, Veterinary Biologics Field Operations, BBEP, APHIS, 223 South Walnut Avenue, Ames, IA, telephone (515) 232–5785, fax (515) 232–7120.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) previously announced that it was scheduling the sixth annual public meeting on veterinary biologics in Ames, IA, on August 1 and 2, 1995 (*See* 60 FR 25196, May 11, 1995, Docket No. 95–030–1). In its notice for the meeting, APHIS requested interested persons to submit topics to be included in the meeting's agenda. Based on the submissions received and other considerations, the agenda for the sixth annual meeting includes, but is not limited to, the following topics:

1. Program activity updates;
2. General Agreement on Tariffs and North American Free Trade Agreement;
3. Risk assessment;
4. Electronic transmission of documents;
5. Poultry issues;
6. International harmonization;
7. Quality assurance of veterinary biologics;
8. Diagnostic kits;
9. Market suspensions;
10. Requalification of references;
11. Veterinary Biologics Field Operations, Veterinary Biologics, and National Veterinary Services Laboratories issues;
12. Informal meetings with APHIS personnel; and
13. Open discussion.

During the ''open discussion'' portion of the meeting, attendees will have the opportunity to present their views on any matter concerning the APHIS veterinary biologics program. Comments may be either impromptu or prepared. Persons wishing to make a prepared statement should indicate their intention to do so at the time of registration, by indicating the subject of their remarks and the approximate time they would like to speak. APHIS welcomes and encourages the presentation of comments at the meeting.

Registration forms, lodging information, and copies of the agenda for the sixth annual public meeting may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** *Registration and housing.* Advance registration is required. The deadline for advance registration is July 17, 1995. A block of hotel rooms has been set aside for this meeting until that date. Early reservation is strongly encouraged.

Done in Washington, DC, this 27th day of June 1995.

Terry Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–16474 Filed 7–5–95; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Research Service

Notice of Availability for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that U.S. Patent Application Serial No. 08/235,848 filed April 29, 1994, U.S. Patent Application Serial No. 08/283,115 filed July 29, 1994 and U.S. Patent Application Serial No. 08/286,111 filed August 4, 1994, all entitled ''Repellents for Ants,'' are available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant a limited exclusive license to Hercon Environmental Corporation of Emigsville, Pennsylvania.

DATES: Comments must be received within 90 calendar days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 401, Building 005, BARC-West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Hercon Environmental Corporation has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which

establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 95–16473 Filed 7–5–95; 8:45 am]

BILLING CODE 3410–03–M

Food and Consumer Service

Food Distribution Program; Value of Donated Foods from July 1, 1995 to June 30, 1996

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or, where applicable, cash in lieu thereof to be provided in the 1996 school year for each lunch served by schools participating in the National School Lunch Program (NSLP) or by commodity schools and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: David R. Seger, Section Head, Institutional Programs Section, Policy and Program Development Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2660.

SUPPLEMENTARY INFORMATION:

Classification

These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

National Average Minimum Value of Donated Foods for the Period July 1, 1995 Through June 30, 1996

This notice implements mandatory provisions of sections 6(e), 14(f) and 17(h)(1) of the National School Lunch Act (the Act) (42 U.S.C. 1755(e), 1762a(f), and 1766(h)(1)). Section 6(e)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. Pursuant to section 6(e)(1)(B), this amount is subject to annual adjustments as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h)(1) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child and Adult Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR part 210) and per lunch and supper under the Child and Adult Care Food Program (7 CFR part 226) shall be 14.25 cents for the period July 1, 1995 through June 30, 1996.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component is assigned a proportional value using the appropriate relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three-month average of the Price Index decreased by 2.00 percent from 126.83 for March, April and May of 1994 to 124.29 for the same three months in 1995. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1995 through June 30, 1996 will be 14.25 cents per meal. This is a decrease of 0.25 cents from the school year 1995 rate.

Section 14(f) of the Act provides that commodity schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and the national average payment established under section 4 of the Act (42 U.S.C. 1753). Such schools are eligible to receive up to 5 cents of this value in cash for processing and handling expenses related to the use of such foods.

Commodity schools are defined in section 12(d)(7) of the Act (42 U.S.C. 1760(d)(7)) as ''schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.''

For the 1996 school year, commodity schools shall be eligible to receive donated food assistance valued at 31.50 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1996. The section 4 factor for commodity schools does not include the two cents per lunch increase for schools where 60 percent of the lunches were served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program. While the level of section 6(e) assistance has decreased, an equal increase has occurred in the section 4 payment factor, thus leaving the per meal assistance level for commodity schools unchanged from the previous year.

Prior to school year 1995, the 6(e) level of assistance and the assistance level for commodity schools, which includes 6(e) support, were final rates not subject to adjustment. However, Section 103 of the Healthy Meals for Healthy Americans Act of 1994, (Public Law 103–448), which became effective October 1, 1994, amended section 6 of the National School Lunch Act by adding a new paragraph (g), which mandates that not less than 12 percent of the assistance provided under sections 4, 6, and 11 of the Act be in the form of commodity assistance, including cash in lieu of commodities and administrative costs for commodity procurement of commodities under section 6. In school year 1995, the announced rate generated commodity assistance at a level that exceeded the 12-percent mandate. In the event that the rate of $.1425 announced in this Notice fails to meet the 12-percent requirement, the rate will be retroactively adjusted upward, and the additional commodities will be delivered to States during the first quarter of the next school year.

Cash in Lieu Payments—Value of Donated Commodities for School Year 1995

Prior to October 1, 1994, section 6(b) of the Act (42 U.S.C. 1755(b)) required the Secretary of Agriculture by June 1 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school year. If the estimated value was less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary was in past years required by July 1 of that school year to pay to each State educational agency funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

However, section 102 of the Healthy Meals for Healthy Americans Act of 1994, amended section 6(b) of the Act by extending the delivery date of commodities to each State participating in the NSLP, until September 30 of the following school year. The commodity delivery date extension eliminates the need to pay States cash in lieu of commodities, effective with school year 1995.

Authority: Sections 6(e)(1)(A) and (B), 14(f) and 17(h)(1) of the National School Lunch Act, as amended (42 U.S.C. 1755(e)(1)(A) and (B), 1762a(f), and 1766(h)(1)).

Dated: June 29, 1995.

William E. Ludwig,

Administrator.

[FR Doc. 95–16566 Filed 7–5–95; 8:45 am]

BILLING CODE 3410–30–U

Forms Under Review by Office of Management and Budget

June 30, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

New

- Forest Service

36 CFR Part 292, Subpart G—Smith River National Recreation Area
Business or other for-profit; Individuals or households; 15 responses; 30 hours
Sam Hotchkiss (202) 205–1535

- Food and Consumer Service

Survey of Cost and Benefits of Disqualified Recipient Subsystem
FCS–15
State, Local or Tribal Government; 53 responses; 1,328 hours
Cecilia Fitzgerald (703) 305–2395

Extension

- Federal Grain Inspection Service

Guidelines for Preparation of Research Proposal
State, Local or Tribal Government; Business or other for-profit; Not-for-profit institutions; 3 responses; 60 hours
Donald E. Koeltzow (816) 891–0463

- Forest Service

36 CFR Part 228, Subpart C—Disposal of Mineral Materials FS–2800–9, R–1–FS–2850–1
Business or other for-profit; Individuals or households; 3,310 responses; 8,850 hours
Walter E. Schlumpf (202) 205–1242

Revision

- Food and Consumer Service

Civil Service Title VI
FSC–191, FSC–101
State, Local or Tribal Government; 2,910 responses; 6,531 hours
John Bedwell (703) 305–2386

- Food and Consumer Service

Food Stamp Redemption Certificate
FCS–278B, FCS–278–4
Business or other for-profit; 27,000,000 responses; 540,000 hours
Jill Herndon (703) 305–2419

- Office of the Secretary

Advisory Committee Membership Background Information
AD–755
Individuals or households; 1,521 responses; 760 hours
Susan Carr Gossman (202) 720–2406

- Consolidated Farm Service Agency

7 CFR Part 402, Catastrophic Risk Protection Plan: Planting and Picking Records
FCI–555, FCI–527, FCI–528, FCI–529
Individuals or households; Farms; 10,573 responses; 11,811 hours
Don Boone (816) 926–6276

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 95–16565 Filed 7–5–95; 8:45 am]

BILLING CODE 3410–01–M

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Appalachian States Low-Level Radioactive Waste Commission; Annual Meeting

AGENCY: Appalachian States Low-Level Radioactive Waste Commission.

ACTION: Open meeting.

SUMMARY: The Appalachian States Low-Level Radioactive Waste Commission will hold an executive session and its annual meeting on July 27, 1995. The executive session is closed to the public.

DATES: July 27, 1995.

ADDRESSES: Holiday Inn—West, 5401 Carlisle Pike in Mechanicsburg, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Marc S. Tenan, Executive Director, 207 State Street, Harrisburg, PA 17101, 717–234–6295.

SUPPLEMENTARY INFORMATION: The Appalachian States Low-Level Radioactive Waste Commission (Commission) was established by the Appalachian States Low-Level Radioactive Waste Compact Consent Act (Public Law 100–319, May 19, 1988). The Commission represents the states of Delaware, Maryland, West Virginia, and the Commonwealth of Pennsylvania to assist in the establishment of a regional low-level radioactive waste disposal facility as required by the Low-Level Radioactive Waste Policy Amendments Act (Public Law 99–240, January 15, 1986).

The primary purpose of the public meeting is to (1) consider a revised budget for 1995–96; (2) consider a proposed budget for 1996–97; (3) elect officers; (4) hear a status report on the regional facility; and (5) discuss the impact of South Carolina's withdrawal from the Southeast Compact. A summary of the executive session will also be presented.

The public meeting will begin at 9:00 a.m. The executive session will be held from 9:15 a.m. to 10:30 a.m. The public meeting will resume after the executive session concludes.

Marc S. Tenan,

Executive Director.

[FR Doc. 95–16628 Filed 7–5–95; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Patent and Trademark Office (PTO).

Title: Initial Patent Application.

Form Number: Agency—PTO xxxx.

Agency Approval Number: 0651–0032.

Type of Request: Revision of a currently approved collection.

Burden: 2,387,000 hours.

Number of Respondents: 221,000.

Avg. Hours Per Response: 10.8 hours.

Needs and Uses: The purpose of this information collection is to permit the PTO to determine whether an application meets the criteria set forth in the patent statutes and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Plant Color Coding Sheet, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statutes and regulations, and will further assist the PTO in processing and examination of the application.

Affected Public: Any individual filing a patent application.

Frequency: When filing a patent application.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Maya A. Bernstein (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearing Officer, Gerald Tache, Department of Commerce, room 5310.

Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, room 10236, New Executive Office Building, Washington, D.C. 20230.

Dated: June 29, 1995.

Gerald Taché,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16503 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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)

Agency: Minority Business Development Agency.

Title: Business Development Report (BDR).

Form Number: MBDA 0640–0005.

Type of Request: Revision of a currently approved collection.

Burden: 100 respondents; 4,800 reporting hours; .25 hours per response.

Needs and Uses: The BDR, MBDA 0640–0005 identifies minority business clients receiving Agency-sponsored management and technical assistance and the kind of assistance each receives. The agency needs this information for program evaluation, program planning and monitoring.

Affected Public: Individuals or households, state or local government, businesses or other for-profit institutions, and non-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, 202–395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Gerald Tache, 202/482–3271, Department of Commerce, Room H5317, 14th and Constitution Avenue, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 29, 1995.

Gerald Taché,

Department of Commerce Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16504 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–CW–M

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title of Survey: Approval of Triangular Transactions Involving Commodities Covered by a U.S. Import Certificate.

Agency Form Number: None.

OMB Approval Number: 0694–0009.

Type of Request: Extension.

Burden: 1 hour.

Number of Respondents: One.

Avg. Hours Per Response: Around 30 minutes.

Needs and Uses: The U.S. and a number of other countries have established import and delivery verification procedures for the purpose of controlling international trade of strategic commodities. These procedures require that, when required by the exporting country, the importer certifies to the government of the importing country that he will not reexport such commodities except in accordance with export control regulations of that country. The government of the importing country, in turn, certifies that such representations have been made. However, it is possible that the U.S. purchaser is not actually going to import the item into the U.S. Rather the item will be transferred to a third party outside the U.S. In those instances, the U.S. purchaser must submit information to BXA to make sure that the transaction is permitted under the U.S. export regulations.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Agency: Bureau of Export Administration (BXA).

Title: Defense Priorities and Allocations System.

Agency Form Number: None.

OMB Approval: 0694–0053.

Type of Request: Reinstatement without change.

Burden: 16,667 recordkeeping hours.

Number of Respondents: 25,000.

Avg. Hours Per Response: 1 minute per order.

Needs and Uses: Under the Defense Production Act of 1950, the President is given authority to allocate materials and facilities and to establish priorities in the performance of contracts and orders in support of the national defense. Persons receiving orders under the DPAS regulations must retain records for 3 years. The recordkeeping requirement is used to create an audit trail in order to determine compliance with the Act.

Affected Public: Businesses and other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.
Agency: Bureau of Export Administration (BXA).
Title: Resource Matching Program Workshop Follow-Up Survey.
Agency Form Number: None.
OMB Approval Number: None.
Type of Request: New.
Burden: 68 hours.
Number of Respondents: 810.
Avg. Hours Per Response: 5 minutes.
Needs and Uses: Secretary Brown initiated the Resource Matching Program as part of the Administration's defense conversion program. The program is designed to provide assistance to small firms, subcontractors, prime contractors, communities and others seeking access to financial, technical, and regulatory information. The information provided through the phone survey will be used to determine the effectiveness of the workshops.
Affected Public: Businesses and other for-profit organizations, state and local governments.
Frequency: On occasion.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.
Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Weather Modification Activities Reports.
Agency Form Numbers: NOAA Forms 17–4, 17–4A, and 17–4B.
OMB Approval Number: 0648–0025.
Type of Request: Extension.
Burden: 240 reporting and recordkeeping hours.
Number of Respondents: 40.
Avg. Hours Per Response: Varies depending on requirement but ranges between 30 minutes and 5 hours.
Affected Public: Businesses or other for-profit organizations, federal, state, local governments.
Frequency: On occasion, annually.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.
Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Permits for Incidental Taking of Endangered and Threatened Species.
Agency Form Number: None.
OMB Approval Number: 0648–0230.
Type of Request: Extension.
Burden: 520 hours.
Number of Respondents: 204.
Avg. Hours Per Response: Ranges between 30 minutes and 80 hours depending on the requirement.
Needs and Uses: The Endangered Species Act imposed, with certain exceptions, prohibitions against the taking of endangered species. However, persons may incidentally take listed species if they obtain approval from the Secretary. To do so, certain information needs to be provided so that a permit or certificate of inclusion can be issued.
Affected Public: Individuals, businesses or other for-profit organizations, not-for-profit institutions, federal, state, local, and tribal governments.
Frequency: On occasion, annually.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.
Agency: National Telecommunications and Information Administration (NTIA).
Title: User Profile—Spectrum Management Internet Server.
Agency Form Number: None.
OMB Approval Number: None.
Type of Request: New.
Burden: 1,667 hours.
Number of Respondents: 10,000.
Avg. Hours Per Response: 10 minutes.
Needs and Uses: To permit NTIA to provide timely and effective service to the public, specific information will be requested from those members of the public using NTIA's Internet servers. The information being collected will be used to develop focused mailing lists and to determine customer satisfaction with the services offered.
Affected Public: Individuals, businesses or other for-profit organizations, not-for-profit institutions, farms, federal, state, local and tribal governments.
Frequency: One-time per respondent.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Virginia Huth, (202) 395–3785, Room 10236, New Executive Office Building, Washington, D.C. 20503.
Agency: Department of Commerce—Office of the Secretary.
Title: Women-Owned Small Business Sources.
Agency Form Number: None.
OMB Approval Number: 0605–0019.
Type of Request: Extension.
Burden: 300 hours.
Number of Respondents: 25.
Avg. Hours Per Response: 12 hours.
Needs and Uses: The Department of Commerce encourages the use of women-owned small businesses in its acquisition programs. For all negotiated contracts with large businesses above $500,000, the contractor is required to develop a list of qualified bidders that are women-owned small businesses. The list is to be used in awarding sub-contracts.
Affected Public: Businesses or other for-profit organizations.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.
Agency: United States Travel and Tourism Administration (USTTA).
Title: Survey of International Air Travelers.
Agency Form Number: None.
OMB Approval Number: 0604–0007.
Type of Request: Revision of a currently approved collection.
Burden: 24,840 hours.
Number of Respondents: 165,600.
Avg. Hours Per Response: 15 minutes.
Needs and Uses: The National Tourism Policy Act directs the Department to assist in the collection, analysis, and dissemination of tourism data. This survey provides consumer marketing data on international travelers and is used to identify and analyze specific foreign travel markets.
Affected Public: Individuals.
Frequency: On occasion.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Don Arbuckle, (202) 395–7340, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the appropriate Desk Officer listed above.

Dated: June 29, 1995

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16505 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Patent and Trademark Office.

Title: Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

Form Number(s): None.

Agency Approval Number: 0651–0024.

Type of Request: Revision of a currently approved collection.

Burden: 900 hours.

Number of Respondents: 3,600.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Patent and Trademark Office requires biotechnology patent applicants to submit sequence information to enable the Patent and Trademark Office to properly examine and process their applications.

Affected Public: Individuals or households, businesses or other for–profit instututions, not–for–profit institutions, and Federal Government.

Frequency: As required.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Maya A. Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, room 10236, New Executive Office Building, Washington, DC 20503.

Dated: June 29, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16534 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Patent and Trademark Office.

Title: Changes in Patent and Trademark Practices.

Form Number(s): PTO–1618 and PTO–1619.

Agency Approval Number: 0651–0027.

Type of Request: Extension of a currently approved collection.

Burden: 85,000 hours.

Number of Respondents: 170,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Patent and Trademark Office (PTO) records about 170,000 assignments or documents related to ownership of patent and trademark cases each year. PTO requires a cover sheet to expedite the processing of these documents and to ensure that they are properly recorded.

Affected Public: Individuals or households and businesses or other for–profit instututions.

Frequency: As required.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Maya A. Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, room 10236, New Executive Office Building, Washington, DC 20503.

Dated: June 29, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16535 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Patent and Trademark Office.

Title: Patent Term Extension.

Form Number(s): None.

Agency Approval Number: 0651–0020.

Type of Request: Extension of a currently approved collection.

Burden: 1,800 hours.

Number of Respondents: 30.

Avg Hours Per Response: 60 hours.

Needs and Uses: The collected information submitted by the patent owner is used by the Patent and Trademark Office and the Departments of Agriculture and Health and Human Services to determine if the term of the patent is eligible for extension under 35 U.S.C. 156.

Affected Public: Individuals or households, businesses or other for–profit instututions, not–for–profit institutions, Federal Government, and state, local or tribal governments.

Frequency: As required.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Maya A. Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, room 10236, New Executive Office Building, Washington, DC 20503.

Dated: June 29, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16537 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Questionnaire Pretesting Research.

Form Number(s): Various.

Agency Approval Number: 0607–0725.

Type of Request: Extension of a currently approved collection.

Burden: 4,500 hours.

Number of Respondents: 4,500.

Avg. Hours Per Response: 1 hour.

Needs and Uses: In 1991, the Census Bureau obtained a generic clearance on an experimental basis, which relaxed some of the time constraints and enabled the Census Bureau to begin conducting extended cognitive and questionnaire design research as part of testing for its censuses and surveys. The clearance covered data collections in the demographic, economic, and decennial areas of the Census Bureau, and specifically applied to research that is focused on questionnaire design and procedures aimed at reducing measurement errors in surveys. The clearance has been in place since that time and the Census Bureau is seeking a renewal of the generic clearance for pretesting, over the next three years. Types of research will include field testing, respondent debriefings, split

sample experiments, cognitive interviews, and focus groups. The Census Bureau will provide OMB with an informational copy of questionnaires and debriefing materials in advance of any testing activity and will summarize testing done under the clearance in a year-end report to OMB.

Affected Public: Individuals or households, Businesses or other for–profit organizations, Farms.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 29, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–16536 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–07–F

Bureau of Export Administration

Joint Meeting of the Computer Systems Technical Advisory Committee, Electronics Technical Advisory Committee, Telecommunications Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A joint meeting of the Computer Systems Technical Advisory Committee, the Electronics Technical Advisory Committee, the Electronics Technical Advisory Committee, and the Telecommunications Equipment Technical Advisory Committee will be held August 1, 1995, 9:00 a.m., Herbert C. Hoover Building, Room 1617–M2, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. These Committees advise the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to equipment and technology in the fields of computers, electronics, and telecommunications.

Agenda

General Session

1. Introductions and presentations by the public.

2. Update on technical advisory committee reorganization.

3. Discussion of candidates for future election of chairman of joint technical advisory committee meetings.

4. Work plan for the coming year.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials or comments at least one week before the meeting to the address listed below: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: June 29, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–16506 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

[I.D. 062695C]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold the 60th meeting of its Scientific and Statistical Committee.

DATES: The meeting will be held on July 18–20, 1995, from 9:00 a.m. until 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the King Kamehameha's Kona Beach Hotel, 75–5660 Palani Rd., Kailua-Kona, HI.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The group will discuss and may make recommendations to the Council on the following agenda items:

1. 1994 annual reports for bottomfish and pelagic fisheries;

2. Hawaii bottomfish issues, including the new Northwestern Hawaiian Islands (NWHI) catch reporting system, and management of the main Hawaiian Islands overfished bottomfish;

3. Alternative management program for NWHI lobster fishery, possibly including new quota setting procedures, minimum size and discard mortality, and individual quotas for fishermen;

4. Development of priorities for the Council's Biological and Oceanographic Research Plan;

5. Coral reef management;

6. Status of Federal definitions for marine commercial and recreational fishermen; and

7. Status of the Pelagic Fisheries Research Program.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Dated: June 29, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–16596 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 062695E]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee (SSC), Surf Clam and Ocean Quahog Industry Advisory Subcommittee, and Surf Clam and Ocean Quahog Committee will hold public meetings.

DATES: The meetings will be held on July 18, 1995, from 10:00 a.m. until 3:00 p.m.

ADDRESSES: The meetings will be held at the Holiday Inn, 45 Industrial Highway, Essington, PA; telephone: 610–521–2400.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to prepare recommendations for the Mid-Atlantic Council for surf clams and ocean quahogs for 1996.

The SSC will meet beginning at 10:00 AM. The Surf Clam and Ocean Quahog Industry Advisory Subcommittee meeting will follow the SSC meeting, and the Surf Clam and Ocean Quahog Committee meeting will follow the Surf Clam and Ocean Quahog Industry Advisory Subcommittee meeting. The final meeting is scheduled to adjourn by 3:00 PM.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331 at least 5 days prior to the meeting date.

Dated: June 29, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–16597 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 062995B]

Endangered Species; Permits

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

ACTION: Receipt of an application for modification 3 to scientific research and enhancement permit 822 (P500B).

SUMMARY: Notice is hereby given that the Fish Passage Center (FPC) in Portland, Oregon has applied in due form for a modification to their permit that authorizes a take of listed species for the purpose of scientific research and enhancement.

DATES: Written comments or requests for a public hearing on this application must be received on or before August 7, 1995.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, F/NWO3, NMFS, 525 NE Oregon Street, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: FPC requests the modification to their permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Permit 822 (P500B) authorizes an annual take of juvenile, threatened, naturally-produced, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with research sampling activities conducted in accordance with the Smolt Monitoring Program. The research sampling activities occur at Bonneville, John Day, and McNary Dams on the Columbia River; Lower Monumental, Little Goose, and Lower Granite Dams on the Snake River; and at the Salmon, Grande Ronde, Clearwater, and Snake River traps.

For modification 3, FPC requests an increase in the annual take of juvenile, listed, spring/summer chinook salmon and juvenile, listed, sockeye salmon. Due to the fact that the progeny of listed Snake River salmon are considered ESA listed fish, even if propagated in a hatchery, FPC has redetermined the annual numbers of listed fish handled, and the corresponding indirect mortalities, associated with their research activities. In addition, the annual number of sockeye/kokanee observed at Lower Granite Dam, as compared with historic passage data, has increased. The annual increase of migrating sockeye/kokanee is due to an increase in the number of true migratory sockeye leaving Redfish Lake in Idaho, as a result of the Idaho Department of Fish and Game's work at rebuilding the run, and large numbers of resident kokanee being washed out of Dworshak Reservoir in Idaho during periods of spill at Dworshak Dam. Modification 3 is requested for the duration of the permit. Permit 822 expires on December 31, 1997.

Those individuals requesting a hearing on this modification application should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: June 29, 1995.

Marta Nammack,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–16636 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

June 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Anne Novak, 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) 927–6718. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17338, published on April 5, 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 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on June 30, 1995, you are directed to increase 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]
Fabric Group	
219, 313, 314, 315, 317, 326, 617, 625/626/627/628/629, as a group.	141,524,455 square meters of which not more than 35,868,226 square meters shall be in 219; 43,838,943 square meters shall be in 313; 25,506,294 square meters shall be in 314; 34,274,084 square meters shall be in 315; 35,868,226 square meters shall be in 317; 3,985,357 square meters shall be in 326; and 23,912,152 square meters shall be in 617.
Sublevel in Fabric Group	
625/626/627/628/629.	16,553,986 square meters of which not more than 6,865,977 square meters shall be in 625; 6,458,673 square meters shall be in 626; 6,458,673 square meters shall be in 627; 6,458,673 square meters shall be in 628; and 6,458,673 square meters shall be in 629.
Limits not in group	
200	1,513,420 kilograms.
300/301	7,368,731 kilograms.
335	318,159 dozen.
336/636	749,441 dozen.
338/339/638/639	4,726,354 dozen of which not more than 2,788,872 dozen shall be in Categories 338–S/339–S/638–S/639–S [2].
340/640	1,502,515 dozen of which not more than 427,336 dozen shall be in shirts made from fabric of two or more colors in the warp and/or the filling in Categories 340–Y/640–Y [3].
341/641	1,483,804 dozen of which not more than 519,331 dozen shall be in blouses made from fabric of two or more colors in the warp and/or the filling in Categories 341–Y/641–Y [4].
342/642	834,284 dozen.
347/348	4,825,319 dozen of which not more than 1,678,455 dozen shall be in trousers in Categories 347–T/348–T [5].
350	456,115 dozen.
351/651	729,251 dozen.
361	1,604,086 numbers.
369–S [6]	1,748,292 kilograms.
410/624	1,254,456 square meters of which not more than 811,707 square meters shall be in Category 410.
448	40,492 dozen.
604	1,898,329 kilograms.
611	49,892,055 square meters.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

[3] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[4] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054; Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[5] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[6] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 95–16509 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcing Settlement on an Import Limit and a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

June 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and announcing a Guaranteed Access Level.

EFFECTIVE DATE: July 5, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, 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. For information on categories on 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).

In a Memorandum of Understanding (MOU) dated June 23, 1995, the Governments of the United States and the Dominican Republic agreed, pursuant to Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC), to establish a limit for cotton and man-made fiber underwear in Categories 352/652 for a three year term—March 27, 1995 through December 31, 1995; January 1, 1996 through December 31, 1996; January 1, 1997 through December 31, 1997; January 1, 1998 through March 26, 1998. The governments also agreed to establish a Guaranteed Access Level for Categories 352/652 for the periods January 1, 1996 through December 31, 1996; January 1, 1997 through December 31, 1997; and January 1, 1998 through March 26, 1998.

Beginning on July 5, 1995, the U.S. Customs Service will start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Categories 352/652 that are destined for the Dominican Republic and subject to the GAL established for Categories 352/652 for the period beginning on January 1, 1996 and extending through December 31, 1996. These products are governed by Harmonized Tariff item number 9802.00.8015 and chapter 61 Statistical Note 5 and chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule. Interested parties should be aware that shipments of cut parts in Categories 352/652 must be accompanied by a form ITA–370P, signed by a U.S. Customs officer, prior to export from the United States for assembly in the Dominican Republic in order to qualify for entry under the Special Access Program.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a limit for Categories 352/652 for the period beginning on March 27, 1995 and extending through December 31, 1995 and to begin signing the first section of form ITA–370P.

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 17321, published on April 5, 1995; and 60 FR 19891, published on April 21, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the 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 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive cancels and supersedes the directive issued to you on June 16, 1995, by the Chairman, Committee for the Implementation of Textile Agreements, directing you to establish a limit for cotton and man-made fiber textile products in Categories 352/652 for the period March 27, 1995 through March 26, 1996.

This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of cotton, wool, man-made fiber and other vegetable fiber textiles and textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on July 5, 1995, you are directed, pursuant to the Memorandum of Understanding dated June 23, 1995 between the Governments of the United States and the Dominican Republic, the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, to establish a limit for textile products in Categories 352/652 at a level of 18,000,000 dozen [1] for the period beginning on March 27, 1995 and extending through December 31, 1995.

Textile products in Categories 352/652 which have been exported to the United States prior to March 27, 1995 shall not be subject to this directive.

Textile products in Categories 352/652 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

Import charges will be provided at a later date.

Beginning on July 5, 1995, the U.S. Customs Service is directed to start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Categories 352/652 that are destined for the Dominican Republic and re-exported to the United States on or after January 1, 1996.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 95–16508 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

June 29, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

[1] The limit has not been adjusted to account for any imports exported after March 26, 1995.

EFFECTIVE DATE: June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 59 FR 65760, published on December 21, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated January 17, 1994, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 29, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 16, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on June 30, 1995, you are directed to amend the directive dated December 16, 1994 to increase the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit[1]
Sublevels in Group I	
342	266,369 dozen.
636	531,112 dozen.
649	893,436 dozen.
840	466,751 dozen.
847	1,235,078 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. 95–16507 Filed 7–5–95; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

The National Senior Service Corps' Project Profile and Volunteer Activity (PPVA) Survey; Annual Data Collection from Project Sponsors (grantees) Concerning Project and Aggregate Volunteer Demographic and Activity Information

AGENCY: Corporation for National and Community Service.

ACTION: Information Collection Request Submitted to the Federal Office of Management and Budget (FOMB) for Review.

SUMMARY: This notice provides information about a data collection form currently under review by the Office of Management and Budget. The forms, which are limited revisions of annual data collection instruments in use for several years, collect project and aggregate volunteer demographic and activity information from National Senior Service Corps project sponsors funded under the Retired and Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), and Senior Companion Program (SCP).

DATES: An expedited review of the extension of authority on the revised forms through February 28, 1996, has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. OMB and the Headquarters Office of the National Senior Service Corps will consider comments on the proposed collection of information and recordkeeping requirements received on or before July 21, 1995.

Frequency of Collection: Annually
Target Respondents: RSVP, FGP and SCP Grantees
Estimated Number of Responses: 1,226
Average Burden Hours Per Response: 8.3 RSVP, 5.0 FGP, 4.5 SCP
Estimated Annual Reporting or Disclosure Burden: 8,673 hours
Addresses: Janice Forney Fisher, National Senior Service Corps, Corporation for National Service, 1201 New York Avenue, NW., Washington, DC 20525
Send Comments to Both: Daniel Chenok, Desk Officer for Corporation for National Service, Office of Management and Budget, 3002 New Executive Office Bldg., Washington, DC 20503.

* This document will be made available in alternate format upon request: TDD (202) 606–5000 ext. 164.
For further information please contact: Janice Forney Fisher (202) 606–5000 ext. 275
Regulatory Authority: National Service Trust Act of 1993

Dated: June 29, 1995.

Thomas E. Endres,

Deputy Director, National Senior Service Corps.

[FR Doc. 95–16631 Filed 7–5–95; 8:45 am]

BILLING CODE 6050–28–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements—Safety Regulations for Non-Full-Size Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through October 31, 1998, of information collection requirements in the safety regulations for non-full-size cribs codified at 16 CFR 1500.18(a)(14) and Part 1509. These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration, and other injuries associated with non-full-size cribs. (A non-full-size crib is a crib having an interior length greater than 55 inches or smaller than 49¾ inches; or an interior width greater than 30⅝ inches or

smaller than 25⅜ inches; or both.) The regulations prescribe performance, design, and labeling requirements for non-full-size cribs. They also require manufacturers of those products to maintain sales records for a period of three years after the manufacture or sale of non-full-size cribs. If any non-full-size cribs subject to provisions of 16 CFR 1500.18(a)(14) and Part 1509 fail to comply in a manner severe enough to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, D. C. 20207.

Title of information collection: Recordkeeping Requirements for Non-Full-Size Baby Cribs - 16 CFR 1509.12.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of products manufactured, imported, or sold.

General description of respondents: Manufacturers and importers of non-full-size cribs.

Estimated number of respondents: 40.

Estimated average number of hours per respondent: 4 per year.

Estimated number of hours for all respondents: 160 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D. C. 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Nicholas Marchica, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D. C. 20207; telephone: (301) 504–0416.

This is not a proposal to which 44 U.S.C. § 3504(h) is applicable.

Dated: June 30, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–16630 Filed 7–5–95; 8:45 am]

BILLING CODE 6355–01–P

Notification of Request for Extension of Approval of Information Collection Requirements—Safety Regulations for Full-Size Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through October 31, 1998, of information collection requirements in the safety regulations for full-size cribs codified at 16 CFR 1500.18(a)(13) and Part 1508. These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration, and other injuries associated with full-size cribs. (A full-size crib is a crib having an interior length ranging from 49¾ inches to 55 inches and an interior width ranging from 25⅜ to 30⅝ inches.) The regulations prescribe performance, design, and labeling requirements for full-size cribs. They also require manufacturers of those products to maintain sales records for a period of three years after the manufacture or sale of full-size cribs. If any full-size cribs subject to provisions of 16 CFR 1500.18(a)(13) and Part 1508 fail to comply in a manner severe enough to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, D. C. 20207.

Title of information collection: Recordkeeping Requirements for Full-Size Baby Cribs—16 CFR 1508.10.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of products manufactured, imported, or sold.

General description of respondents: Manufacturers and importers of full-size cribs.

Estimated number of respondents: 40.

Estimated average number of hours per respondent: 5 per year.

Estimated number of hours for all respondents: 200 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D. C. 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Nicholas Marchica, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D. C. 20207; telephone: (301) 504–0416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: June 30, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–16632 Filed 7–5–95; 8:45 am]

BILLING CODE 6355–01–P

Notification of Request for Extension of Approval of Information Collection Requirements; Mattress Flammability Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through September 30, 1998, of information collection requirements in the Standard for the Flammability of Mattresses and Mattress Pads (16 CFR Part 1632). The standard is intended to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses and mattress pads. The standard prescribes a test to assure that a mattress or mattress pad will resist ignition from a smoldering cigarette. The standard requires manufacturers to perform prototype tests of each combination of materials and construction methods used to produce mattresses or mattress pads and to obtain accceptable results from such testing. Sale or distribution of mattresses without successful completion of the testing required by the standard violates section 3 of the Flammable Fabrics Act (15 USC 1192). An enforcement rule implementing the standard requires manufacturers to maintain records of testing performed in accordance with the standard and other information about the mattress or mattress pads which they produce.

Additional Information About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR 1632.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon the number of individual combinations of materials and methods of construction used to produce mattresses.

General description of respondents: Manufacturers and importers of mattresses and mattress pads.

Estimated number of respondents: 800.

Estimated average number of hours per respondent: 26 per year.

Estimated number of hours for all respondents: 20,800 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Nicholas Marchica, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: June 30, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission

[FR Doc. 95–16633 Filed 7–5–95; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Performance Review Board (PRB)

DATE: June 30, 1995.

AGENCY: Defense Logistics Agency, Defense.

ACTION: Notice of membership of the DLA PRBs.

SUMMARY: This notice announces the appointment of the members of the PRBs of the Defense Logistics Agency. The publication of the PRB is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance awards to the Director, Defense Logistics Agency.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra M. Miller, Assistant Executive Director, Workforce Effectiveness and Development Group, Human Resources, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (703) 274–6049 or 274–6039.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the PRBs. They will serve a 1-year renewable term, effective upon publication of this notice.

Initial PRB—

Mr. A.C. Ressler, Executive Director, Human Resources

Mr. Robert P. Scott, Executive Director, Contract Management

Ms. Marilyn Barnett, Deputy, Defense Construction Supply Center

2nd Level Review—

Mr. Gary S. Thurber, Deputy Director, Corporate Administration

Mr. James J. Grady, Jr., Director, Distribution Systems Center

Mr. Bruce Baird, General Counsel

A.C. Ressler,

Executive Director (Human Resources).

[FR Doc. 95–16516 Filed 7–5–95; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0020]

Clearance Request for Qualification Requirements

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

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0020).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Qualification Requirements.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

10 U.S.C. 2319 and 41 U.S.C. 253c prescribe policies and procedures which are to be followed by Federal agencies before they may establish any prequalification requirement with which a prospective contractor must comply before his offer will even be considered by the agency for a contract award. Three basic requirements are prescribed.

First, the agency must examine the need for establishing the prequalification requirement, given its adverse impact on free and open competition. Having established that a need for a prequalification requirement exists, the agency must prepare a written justification which explains that need.

Second, the agency must specify the standards which a prospective contractor, or its product or service, must satisfy in order to be qualified. The agency is directed to limit such standards to those essential to ''meet the purposes necessitating the establishment of the prequalification requirement.''

Third, the executive agency imposing the prequalification requirement must promptly provide a prospective contractor with the opportunity to demonstrate its ability to meet the standards the agency has specified for qualification.

The contracting officer uses the information to determine eligibility for award when the clause at 52.209–1, Qualification Requirements, is included in the solicitation. The offeror must identify the offeror, manufacturer, source, product or service, as appropriate, that has been prequalified and test number as evidence that the qualification requirement has been met. Alternatively, an offeror not meeting the qualification requirement may be considered for award upon the submission of evidence that the qualification requirement has been satisfied.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.17* hours per response, including the time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the General Services Administration, FAR Secretariat, 18th & F Streets, NW., Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: Respondents, *2,700*; responses per respondent, *10*; total annual responses, *27,000*; preparation hours per response, *.17*; and total response burden hours, *4,590*.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0020, Qualification Requirements, in all correspondence.

Dated: June 19, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–16529 Filed 7–5–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–9921]

Clearnace Request for Clean Air and Water Certification

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

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0021).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Clean Air and Water Certification.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

It is the Government's policy to improve environmental quality. Accordingly, Executive agencies must conduct their acquisition activities in a manner that will result in effective enforcement of the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Clean Water Act (33 U.S.C. 1251 *et seq.*). The information required by the Clean Air and Water Certification is used to determine a contractor's compliance with these laws. A determination of noncompliance by the contracting officer requires notifying the agency head or designee who, in turn, notifies the Environmental Protection Agency's (EPA) Administrator, or a designee, in writing. Government contracting offices use the information to determine a firm's eligibility for award of a contract and to provide information to the EPA.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.01666* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the General Services Administration, FAR Secretariat, 18th and F Streets, NW, Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: Respondents, *83,400*; responses per respondent, *20*; total annual responses, *1,668,000*; preparation hours per response, *.01666*; and total response burden hours, *27,800*.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0021, Clean Air and Water Certification, in all correspondence.

Dated: June 19, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–16530 Filed 7–5–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Fort Devens Military Reservation

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The Department of the Army, in accordance with the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, announces that the property listed below, at the North and Main Posts of the Fort Devens Military Reservation, located on Massachusetts State Route 2, 35 miles northwest of Boston, has been determined surplus. While most of this property is scheduled to be vacated by March 31, 1996, some of the property may not become available until later. This is the opportunity for state and local governments, representatives of the homeless, and other interested parties to 0submit their notices of interest to the Massachusetts Government Land Bank, which is the redevelopment authority for the North and Main Posts of Fort Devens.

DATES: Proposals for using the surplus property should be submitted as soon as possible to the Massachusetts Government Land Bank at the address listed below. Please contact the Massachusetts Government Land Bank for the submission deadline.

FOR FURTHER INFORMATION CONTACT:

Michael P. Hogan, Executive Director, Massachusetts Government Land Bank, 1 Court Street, Boston, Massachusetts 02108, telephone 617–727–8257, fax 617–727–8741.

SUPPLEMENTARY INFORMATION: The Massachusetts Government Land Bank and the towns of Ayer, Harvard and Shirley have approved a Reuse Plan and Bylaws that will govern the civilian redevelopment of the surplus property listed below.

A summary of the property is as follows:

1545 family housing facilities

9 temporary lodging facilities

40 operation and training facilities

10 maintenance facilities

37 storage facilities

4 medical facilities

7 administrative facilities

43 housing and community facilities

28 utilities and ground improvements

Recreational land, which includes tennis courts, an indoor pool, softball fields, helipads, and playgrounds

The above are buildings of permanent construction. Also available are 351 temporary buildings with 1,538,128 square feet. Most of these buildings were constructed during the World War II era.

Total: Approximately 2990 acres of land, and approximately 5,461,182 square feet of building space.

The Department of Interior (Fish and Wildlife Service), Department of Labor (Job Corps), and Department of Justice (Bureau of Prisons) have expressed an interest in using portions of Fort Devens, and such use has been approved.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–16521 Filed 7–5–95; 8:45 am]

BILLING CODE 3710–24–M

Award of the New Fort Bragg/Pope Air Force Base Managed Mental Health Services Contract to FHC Options, Inc. (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS))

AGENCY: Army, Office of The Surgeon General.

ACTION: Notice of award of the Fort Bragg/Pope Air Force Base managed mental health program fixed price, at-risk contract.

SUMMARY: The Fleet Industrial Supply Center (FISC) Naval Detachment, Philadelphia, Pennsylvania, has awarded to FHC Options, Inc., a subsidiary of FHC Health Systems, Norfolk, Virginia, the contract to provide managed mental health services to Fort Bragg and Pope Air Force Base CHAMPUS eligible beneficiaries in the Fayetteville, North Carolina area. The contract duration is one year, the four subsequent one-year renewal options. The new contact implementation date is October 1, 1995.

Currently, Fort Bragg and Pope Air Force Base CHAMPUS-eligible adults receive mental health services as under the standard CHAMPUS benefit and management program. Children and adolescents receive mental health services initiated under the Fort Bragg demonstration. The demonstration project ended on 18 May 1994; its provisions continue under an interim contract scheduled to end September 30, 1995. Under the demonstration CHAMPUS-eligible beneficiaries under 18 years of age were evaluated through a central intake system and referred to providers of the main subcontract or its subcontracted providers. Intermediate level services were available in less restrictive settings, between inpatient and outpatient services. There were no copays, deductibles or cost-shares associated with mental health care received under the demonstration.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Bullock, Contract Specialist, FISC Detachment, Philadelphia, Pennsylvania 19112–5082, (215) 697–9676 or Captain Kathleen Lavigne, Medical Corps, Contracting Officer's Representative, Womack Army Medical Center, Fort Bragg, North Carolina 28307–5000, (910) 432–2992.

SUPPLEMENTARY INFORMATION: The new contract incorporates the following changes from the past contract:

24-Hour, Toll Free Referral Line

Fort Bragg and Pope Air Force Base CHAMPUS-eligible beneficiaries may obtain access to mental health services by calling the 24-hour, toll free CHOICE LINE. The telephone line is staffed by licensed mental health clinicians who have access to a computerized program that assists in finding the most appropriate mental health provider for the beneficiary. Routine appointments will be available within 14 days, versus 21 days under the demonstration program.

Resource Center

In addition, the beneficiaries will be able to walk into a Resource Center for referral and appointment setting. This Center, located in Fayetteville near Cape Fear Valley Medical Center, will offer face-to-face assessments, referral services, prevention and wellness seminars and information for Fort Bragg and Pope Air Force Base CHAMPUS eligible beneficiaries.

Intermediate and Other Services

The new contract includes the demonstration intermediate level services with case management only for children and adolescents under demonstration authority as an exception to the CHAMPUS benefit. This level of care provides out of home services in a less restrictive environment when compared to inpatient services. In addition, intense outpatient crisis intervention will be available to adults, children and adolescents and in-home services will be available to adults.

Out-of-Area Care

Beneficiaries who reside in the Fort Bragg/Pope Air Force Base catchment area are covered for mental health care in all other states if mental health care becomes necessary while the beneficiary is out of the catchment area. Non-Fort Bragg beneficiaries needing mental health care in this area will receive referrals, case management and other services under this contract, also. The Fort Bragg mental health contractor is not at-risk for the non-Fort Bragg beneficiary services.

Emergency Access to Mental Health Services

In emergency situations, Fort Bragg CHAMPUS-eligible benificiaries may call the 24 hour CHOICE LINE or go to an emergency facility. Emergency calls to the CHOICE LINE are handled immediately by a licensed mental health clinician.

Cost Sharing

The associated cost sharing schedule for mental health and chemical dependency services is identified in the proposed rule notice (pending final approval), Vol. 60, **Federal Register** 7489, February 8, 1995.

Charles G. Stevens,

Colonel, MS, Executive officer.

[FR Doc. 95–16520 Filed 7–5–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Hearing and Opportunity for Public Comment; Regarding Proposed Comparable Transmission Terms and Conditions

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Opportunity to Comment.

SUMMARY: *BPA File No:* TC–96. BPA requests that all comments and documents intended to become part of the Official Record in this process contain the file number designation TC–96.

BPA is proposing terms and conditions for transmission services over the network transmission system of the Federal Columbia River Transmission System (FCRTS) which BPA considers to be comparable to the uses BPA itself makes of such system for its own power transactions. Such terms and conditions are proposed to be effective October 1, 1996. BPA previously initiated a regional administrative proceeding to which parties have been officially designated. By this notice, BPA is announcing the availability of the proposed transmission terms and conditions and the period for comments from persons not designated as parties to the proceeding.

DATES: Persons wishing to comment on the proposed transmission terms and conditions who are not parties to the proceeding (''participants'') must submit written comments on the proposals by October 2, 1995.

Written comments should be submitted to the Manager, Corporate Communications—CK; Bonneville Power Administration; P.O. Box 12999; Portland, Oregon, 97212.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Hansen, Public Involvement and Information Specialist, at the address listed above, (503) 230–4328 or call toll-free 1–800–622–4519. Information also may be obtained from:

Mr. Steve Hickok, Group Vice President, Sales and Customer Service, S–700, P.O. Box 3621, Portland, OR, 97232, (503) 230–5356.

Mr. George Eskridge, Manager, SE Sales and Customer Service District, 1101 W. River, Suite 250, Boise, ID 83702, (208) 334–9137.

Mr. Ken Hustad, Manager, NE Sales and Customer Service District, Crescent Court, Suite 500, 707 Main, Spokane, WA 99201, (509) 353–2518.

Ms. Ruth Bennett, Manager, SW Sales and Customer Service District, 703 Broadway, Vancouver, WA 98660, (360) 418–8600.

Ms. Marg Nelson, Manager, NW Sales and Customer Service District, Suite 400, 1601 5th Avenue, Suite 1000, Seattle, WA 98101–1670, (206) 216–4271.

Responsible Official: Mr. Dennis Metcalf, BPA Transmission Team Lead, is the responsible official for the development of BPA's transmission terms and conditions.

SUPPLEMENTARY INFORMATION: BPA is proposing to establish terms and conditions of general applicability for transmission services comparable to the uses BPA provides itself over the integrated network transmission system of the FCRTS. These proposed terms and conditions for comparable services are intended to: (1) Respond to customer requests in the context of the renegotiation of BPA's power sales contracts that BPA eliminate its transmission-based market power; (2) with respect to network transmission services, comply with the Federal Energy Regulatory Commission's (FERC's) requirement that members of regional transmission associations develop and publish tariffs meeting the Commission's comparability standards; and (3) facilitate an opportunity for FERC to review the rates for these services, which BPA has filed concurrently with this notice as meeting the just, reasonable, and not unduly discriminatory or preferential standard, in the context of the associated contractual terms and conditions. The tariffs are proposed to be effective October 1, 1996.

The Federal Power Act amendments passed by Congress in the Energy Policy Act of 1992, Pub. L. No.102–486, 106 Stat. 2776 (1992), provide that BPA may institute a formal regional hearing on transmission terms and conditions which it proposes to establish for general applicability. 16 U.S.C. § 824k(i)(2). BPA has instituted that proceeding through a prehearing conference on March 22, 1995, and parties to the proceeding have been designated. A full description of the procedural background is found in BPA's ''Notice of Proposed Wholesale Power Rates and Transmission Rates'' published elsewhere in this issue. Parties will be served with the proposals on July 10, 1995. Persons who are not parties to the proceeding but who wish to comment on the proposals are ''participants'' and may request copies of the proposals from BPA's Public Information Center, BPA Headquarters Building, 1st Floor, 905 NE. 11th Street, Portland, OR, 97208, or BPA's Document Request Line, 503–230–3478 or toll free 1–800–622–4520. Comments from participants are incorporated into the Official Record and will be considered by the Hearing Officer and the Administrator.

Public field hearings are an opportunity for participants to have their views included in the official record. Participants may appear at the field hearings and present oral testimony. Written transcripts will be made at all of the field hearings. The transcripts of these hearings will be part of the record upon which the Administrator makes final rate decisions. All of the field hearings are scheduled to begin at 7:00 p.m. registration begins at 6:30 p.m. Following are the tentative dates and locations for the filed hearings. Confirmation of these hearing dates will be made through mailings and public advertising or by calling BPA Corporate Communications at the telephone number listed in Section 1 above.

September 19, 1995.
Best Western Burley Inn, 800 N. Overland Avenue, Burley, Idaho 83318.

September 20, 1995.
Cavanaugh's, Ballroom B, 200 North Main, Kalispell, Montana 59901.

September 21, 1995.
Red Lion GateWay, 3280 Gateway Drive, Springfield, Oregon 97477.

September 26, 1995.
Howard Johnson Plaza Hotel, Widbey-Camano Room, 3105 Pine, Everett, Washington.

September 27, 1995 Cavanaugh's, East 110 Fourth Avenue, Spokane, Washington 99202.

September 28, 1995.
Pasco Red Lion, Design Room, 2525 North 20th, Pasco, Washington 99301.

BPA is proposing comparable network transmission tariffs based on the tariffs contained in the FERC's Notice of Proposed Rulemaking on Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities, Docket No. RM95–8–000. Proposed commitments and requirements are described for: (1) Integrated network service pursuant to which an entity may use the integrated network transmission system of the FCRTS flexibly to meet its network loads on a basis comparable to BPA's native load obligations; and (2) flexible, point-to-point firm and nonfirm transmission services over the integrated network transmission system of the FCRTS and available to serve network loads as well as off-system sales.

Issued in Portland, Oregon, on June 28, 1995.

Randy W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 95–16617 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Office of General Counsel

Proposed Consent Order With Occidental Petroleum Corporation

AGENCY: Department of Energy.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Department of Energy (DOE) announces a proposed Consent Order between the DOE and Occidental Petroleum Corporation (Occidental), including its wholly owned subsidiary OXY USA Inc. (OXY) which was formerly Cities Service Oil and Gas Corporation, successor in interest to Cities Service Company (Cities).

The agreement proposes to resolve matters relating to Occidental's compliance with the federal petroleum price and allocation regulations for the period October 1, 1979 through January 27, 1981. If this Consent Order is made final, Occidental will pay to the DOE two hundred seventy five million dollars ($275,000,000). Within thirty (30) days of the effective date of the Consent Order, Occidental shall make an initial payment to the DOE of one hundred million dollars ($100,000,000),

and thereafter five (5) equal annual payments of thirty-five million dollars ($35,000,000), plus interest at the rate of seven and six-tenths percent (7.6%), compounded quarterly, on the unpaid balance. This Consent Order would not affect the Consent Order between Cities and DOE dated October 31, 1979, which, except as otherwise provided therein, covered the period August 19, 1973 through September 30, 1979.

To distribute the moneys collected under the Consent Order, DOE's Office of Hearings and Appeals (OHA) will be petitioned to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in which proceedings any persons who claim to have suffered injury from the alleged overcharges would have the opportunity to submit claims for payment.

Pursuant to 10 CFR 205.199J, DOE will receive written comments on the proposed Consent Order for thirty (30) days following publication of this Notice and will consider all comments received from the public in determining whether to accept the settlement and issue a final Order, renegotiate the agreement and issue a modified agreement as a final Order, or reject the settlement. DOE's final decision will be published in the **Federal Register**, along with an analysis of significant written comments in response to this Notice, as well as any other considerations that were relevant to the final decision.

DATES: Comments must be received by August 7, 1995.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposed Consent Order to: Occidental Consent Order Comments, U.S. Department of Energy, Office of General Counsel, GC–43, 1000 Independence Avenue, SW, Washington, DC 20585. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the provisions of 10 CFR 205.9(f).

FOR FURTHER INFORMATION CONTACT: Betty L. Dingle-Brown, Department of Energy, GC–43, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 523–3011.

SUPPLEMENTARY INFORMATION:

I. Resolution of Regulatory Issues

Occidental is a successor in interest to Cities, which was a refiner, producer and reseller subject to the DOE's audit jurisdiction to determine compliance with the Federal Petroleum Price and Allocation Regulations. During the period covered by this proposed Order (October 1, 1979 through January 27, 1981),[1] Cities engaged in, among other things, the production, importation, purchase, sale, exchange and refining of crude oil, and the purchase and sale of refined product. As a result of its audit, the DOE raised certain issues with respect to 91 reciprocal purchases and sales of crude oil in which Cities sold price-controlled crude oil to resellers and concurrently purchased price exempt-certified crude oil at a discount from the market price. These transactions and OXY's potential liability arising therefrom constitute the central issue which would be resolved by the proposed Order.

In a Proposed Remedial Order issued in March 1985, DOE sought to hold OXY liable for overcharges in these transactions, seeking $263.8 million plus prejudgment interest, on the ground that Cities violated DOE's crude oil resale price rule applicable to refiners. DOE prevailed at the initial stage before the OHA. *Cities Service Oil and Gas Corp.*, 17 DOE ¶ 83,021 (1988). Five years later, the OHA decision was vacated by the Federal Energy Regulatory Commission (FERC), to which Cities had appealed. *Cities Service Oil and Gas Corp.*, 65 FERC ¶ 61,403 (1993), *reconsideration denied*, 66 FERC ¶ 61,222 (1994). The relevant statute, 42 U.S.C. 7193, provides that FERC's decision in such a case is a final action by DOE.[2]

On February 21, 1992, pursuant to OHA's remand in the 1988 Remedial Order and while Cities' appeal to FERC was pending, DOE issued a Revised Proposed Remedial Order (RPRO) to OXY under an alternative theory of liability. The RPRO charged that in 82 reciprocal crude oil transactions between October 1979 and December 1980, Cities violated DOE's Entitlements Program reporting regulations: (1) That the transactions served no legitmate business or economic purpose and were therefore legally ineffective in transforming Cities' controlled crude oil into entitlements purchase-exempt crude; and (2) that Cities had no plausible basis for its professed belief that entitlements-exempt uses, rather than miscertification, explained the deep discounts Cities obtained on the exempt-certified crude. *OXY USA Inc.*, OHA Case No. LRO–0003. In the remand proceeding, DOE is seeking $253.767 million in refunds, plus prejudgment interest which would currently total $915.533 million.

A tentative settlement reached between DOE and Occidental in 1989 was rejected by the DOE in 1991 upon consideration of the comments and testimony submitted in the course of the public process.[3] Attempts to renegotiate or modify the proposed Order were unavailing, and later efforts conducted pursuant to the FERC's settlement procedures also led to an impasse. More recently, in January 1995, DOE and Occidental, along with intervenor parties, agreed to attempt a structured mediation. The settlement proposed today represents the product of that mediation process.

II. Determination of Reasonable Settlement Amount

DOE has preliminarily agreed to the settlement terms after considering the factual and legal issues in dispute in the litigation, assessing the litigation risks associated with establishing the alleged violations, and considering the benefit to the public from prompt receipt of the benefits from settlement of the extensive number of legal and factual issues that would require intensive additional litigation to resolve. DOE also considered the litigation risk factors generally present in all regulatory disputes in this program based on its current legal framework. The total amount of OXY's potential liability resulting from the subject transactions could only be recovered by the government if, in litigation, all issues were resolved in the DOE's favor. The risks inherent in such litigation make such an outcome uncertain.

Based on consideration of all of these factors, DOE's preliminary determination is that Occidental's agreement to the terms of the proposed Consent Order constitutes a settlement which is in the public interest.

III. Terms and Conditions of the Consent Order

If the Consent Order is made final, Occidental Petroleum and OXY will be jointly and severally liable for the following payments: $100 million within 30 days of the Consent Order

[1] In a previous Consent Order dated October 31, 1979, and generally covering the period August 19, 1973 through September 30, 1979, Cities agreed to price rollback, refund and bank reduction remedies totaling $177 million.

[2] Two groups of intervenors, however, attempted to appeal FERC's decision. Alabama v. FERC, CA No. 94–0347 (D.D.C.), and *Consolidated Edison Co. of New York, Inc.* v. *O'Leary*, CA No. 94–0352 (D.D.C.). On June 8, 1995, the court dismissed both suits based on the plaintiffs' lack of standing. Plaintiffs in the second case have noticed their appeal.

[3] 54 FR. 22469 (May 24, 1989); 54 FR. 35371 (Aug. 25, 1989); 56 FR. 21361 (May 8, 1991).

becoming effective, and five subsequent annual installments of $35 million plus interest on the unpaid balances at 7.6% per annum, compounded quarterly. In all, the principal payments will be $275 million, and the interest will total approximately $41 million. Payments which are more than fifteen days late will accrue interest at the rate of 15.2% per annum. The DOE's Office of Hearings and Appeals will be petitioned to implement Special Refund Procedures for distribution of the settlement funds pursuant to 10 CFR part 205, subpart V.

Upon becoming effective, DOE and Occidental would file appropriate pleadings to withdraw all claims and dismiss with prejudice all proceedings covered by the Consent Order, including the case pending before the OHA.

The agreement does not affect any rights Occidental may have in connection with the funds at issue in a specific refund proceeding pending before the DOE's Office of Hearings and Appeals, *Enron Corp./OXY USA Inc.*, OHA Case No. RF340–00112, or in the exception proceeding originally styled *The 341 Tract Unit of the Citronelle Field/OXY USA Inc.*, OHA Case No. RF345–00021 and now under review in *Amoco Oil Co., et al.* v. *DOE*, CA No. H–94–2423 (S.D. Tex.) and in *R. H. Stechman, et al.* v. *DOE*, CA No. 94–0887–A-M (S.D. Ala.).

If the agreement is made final, Occidental will withdraw certain requests and portions of other requests made by its attorneys under the Freedom of Information Act. Occidental and DOE mutually release each other from claims and actions arising under the subject matters covered by the proposed Consent Order. Also, the proposed Order does not affect the right of any other party to take action against Occidental, or of Occidental or the DOE to take action against any other party. Finally, Occidental may withdraw from the agreement if the settlement is not made final by the one hundred twentieth (120th) day following execution.

Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is a part.

All comments received by the thirtieth (30th) day following publication of this Notice in the **Federal Register** will be considered before determining whether to adopt the proposed Consent Order as a final Order. Any modifications of the proposed Consent Order which significantly alter its terms or impact will be published for additional comments. If, after considering the comments it has received, DOE determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of a Notice in the **Federal Register**.

Issued in Washington, DC, on June 29, 1995.

Eric J. Fygi,

Deputy General Counsel.

I. Introduction

101. This Consent Order is entered into between Occidental Petroleum Corporation (''Occidental''), including its wholly owned subsidiary OXY USA Inc. (''OXY'') (formerly Cities Service Oil and Gas Corporation, successor in interest to Cities Service Company (''Cities Service'')), and the United States Department of Energy (''DOE''). Except as otherwise provided herein, this Consent Order settles and finally resolves all civil and administrative claims and disputes, whether or not heretofore asserted, between the DOE, as hereinafter defined, and Occidental, as hereinafter defined, relating to Occidental's compliance with the federal petroleum price and allocation regulations, as hereinafter defined, during the period October 1, 1979, through January 27, 1981 (all the matters settled and resolved by this Consent Order are referred to hereinafter as ''the matters covered by this Consent Order''). This Consent Order does not affect the Consent Order between Cities Service and DOE dated October 31, 1979, which, except as otherwise provided therein, covered the period August 19, 1973, through September 30, 1979.

II. Jurisdiction, Regulatory Authority and Definitions

201. This Consent Order is entered into by the DOE pursuant to the authority conferred upon it by Sections 301 and 503 of the Department of Energy Organization Act (''DOE Act''), 42 U.S.C. 7151 and 7193, Executive Order No. 12009, 42 FR 46267 (1977); Executive Order No. 12038, 43 FR 4957 (1978); and 10 CFR 205.l99J.

202. For purposes of this Consent Order, the phrase ''federal petroleum price and allocation regulations'' means all statutory requirements and administrative regulations and orders regarding the pricing and allocation of crude oil, refined petroleum products, natural gas liquids, and natural gas liquid products, including the entitlements and mandatory oil import programs, administered by the DOE. The federal petroleum price and allocation regulations include (without limitation) the pricing, allocation, reporting, certification, and recordkeeping requirements imposed by or under the Economic Stabilization Act of 1970, the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974, the DOE Act, any and all amendments to said acts, Presidential Proclamation 3279, all applicable DOE regulations codified in 6 CFR parts 130 and 150 and 10 CFR parts 205, 210, 211, 212, and 213, and all rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, notices, forms, and subpoenas relating to the pricing and allocation of petroleum products. The provisions of 10 CFR 205.l99J and the definitions under the federal petroleum price and allocation regulations shall apply to this Consent Order except to the extent inconsistent herewith. Reference herein to ''DOE'' includes, besides the Department of Energy, the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, the Office of Special Counsel, the Economic Regulatory Administration and all agencies succeeding to the DOE's authority to administer or enforce the federal petroleum price and allocation regulations. References in this Consent Order to ''Occidental'' shall include: (1) Occidental Petroleum Corporation, its subsidiaries and affiliates, and its and their predecessors, including Cities Service Company and Cities Service Oil and Gas Corporation, and their subsidiaries and affiliates, (2) all of Occidental's petroleum-related activities, whether as a refiner, producer, operator, working interest or royalty interest owner, reseller, retailer, natural gas processor, or otherwise, and (3) Occidental's present and former directors, officers and employees.

III. Facts

The stipulated facts upon which this Consent Order is based are as follows:

301. During the period covered by this Consent Order, Occidental was a ''refiner'', ''producer'' and ''reseller'' as those terms are defined in the federal petroleum price and allocation regulations and was subject to the jurisdiction of the DOE.

302. On October 31, 1979, Cities Service and the DOE entered into a Consent Order which settled all claims and disputes against Cities Service by the DOE, except as otherwise provided therein, for the period August 19, 1973, through September 30, 1979, with respect to the statutory and regulatory petroleum programs administered and

enforced by the DOE and its predecessor agencies.

303. Following the 1979 Consent Order, the DOE audited Cities Service's compliance with the federal petroleum price and allocation regulations for the period after September 30, 1979. As a result, the DOE raised certain issues with respect to certain related purchases and sales of crude oil in which Cities Service sold price-controlled crude oil to resellers and purchased exempt-certified crude oil from those resellers. The DOE initiated formal enforcement action alleging that these transactions violated certain provisions of the federal petroleum price and allocation regulations. Occidental maintains, however, that Cities Service's conduct with respect to these transactions was in all respects lawful and in accordance with the federal petroleum price and allocation regulations. The DOE and Occidental have each asserted its belief that its respective legal and factual positions regarding such transactions are meritorious. These positions were emphasized in the intensive review and exchange of information conducted during the audit, during litigation of those issues, and during the settlement negotiation process. Neither DOE nor Occidental disavows any position taken with respect to such matters. However, in order to avoid the expense of further protracted and complex litigation and the disruption of its orderly business functions, Occidental has agreed to enter into this Consent Order, which, among other things, resolves both the principal and interest component of the claims that the DOE has asserted against Cities Service and/or Occidental in connection with the above-described transactions. The DOE believes this Consent Order constitutes a satisfactory resolution of the matters covered herein and is in the public interest.

IV. Remedial Provisions

401. In full and final settlement of all matters covered by this Consent Order and in lieu of all other remedies which have been or might be sought by the DOE against Occidental for such matters under 10 CFR 205.1991 or otherwise, Occidental and OXY shall be jointly and severally liable to pay to the DOE two hundred seventy-five million dollars ($275,000,000.00), plus interest, in the manner specified in paragraphs 402, 403, 404, and 405.

402. On or before the thirtieth (30th) day following the Effective Date of this Consent Order, either Occidental or OXY shall make an initial payment to the DOE of one hundred million dollars ($100,000,000.00). The date of such payment is designated, for purposes of this Consent Order, as the Initial Payment Date.

403. On or before each of the first five anniversaries of the Initial Payment Date, either Occidental or OXY shall pay to DOE an amount equal to thirty-five million dollars ($35,000,000.00), plus interest at the rate of seven and six-tenths percent (7.6%), compounded quarterly, accrued on such payment from the Initial Payment Date to the date of such payment. If any anniversary of the Initial Payment Date is not a business day, the payment shall be due on the first business day following such anniversary.

404. Payments received after the due date shall include additional interest, calculated at the rate of 7.6 percent per annum for the first fifteen (15) days after the due date and 15.2 percent per annum thereafter.

405. The payments pursuant to paragraphs 402 through 404 shall be made by wire transfer in accordance with instructions furnished to Occidental and OXY by the DOE in a timely manner.

406. Inasmuch as this Consent Order settles both the principal and interest portions of all claims made by the DOE against Occidental, the principal portion of the payments made pursuant to paragraphs 402 through 404 shall be deemed to be a payment of principal and interest in the same ratio that the principal portion of the DOE's claim in the proceeding styled *In the Matter of OXY USA Inc.*, Case No. LRO–0003, currently pending before the Office of Hearings and Appeals (''OHA''), bears to the interest portion of the DOE's claim in that case as of the Effective Date.

407. Payments made pursuant to this Consent Order shall be distributed by the DOE pursuant to the special refund procedures prescribed by 10 CFR Part 205, subpart V.

V. Issues Resolved

501. All pending and potential civil and administrative claims, whether or not known, demands, liabilities, causes of action or other proceedings by the DOE against Occidental regarding Occidental's compliance with and obligations under the federal petroleum price and allocation regulations during the period covered by this Consent Order, whether or not heretofore raised by an issue letter, Notice of Probable Violation, Notice of Proposed Disallowance, Proposed Remedial Order, Remedial Order, actions in court or otherwise, are resolved, extinguished and released as to Occidental by this Consent Order. This Consent Order, however, does not resolve, extinguish, release or otherwise affect DOE's claims against any other party.

502. (a) Except as otherwise provided herein, compliance by Occidental with this Consent Order shall be deemed by the DOE to constitute full compliance for administrative and civil purposes with all federal petroleum price and allocation regulations for matters covered by this Consent Order. In consideration for performance as required under this Consent Order by Occidental, the DOE hereby releases Occidental completely and for all purposes from all administrative and civil judicial claims, demands, liabilities or causes of action, including, without limitation, claims for civil penalties that the DOE has asserted or might otherwise be able to assert against Occidental before or after the date of this Consent Order for alleged violations of the federal petroleum price and allocation regulations with respect to matters covered by this Consent Order. The DOE will not initiate or prosecute any such administrative or civil judicial matter against Occidental or cause or refer any such matter to be initiated or prosecuted, nor will the DOE or its successors directly or indirectly aid in the initiation of any such administrative or civil judicial matter against Occidental or participate voluntarily in the prosecution of such actions. The DOE will not assert voluntarily in any administrative or civil judicial proceeding that Occidental has violated the federal petroleum price and allocation regulations with respect to the matters covered by this Consent Order or otherwise take any action with respect to Occidental in derogation of this Consent Order. However, nothing contained herein shall preclude the DOE from defending the validity of the federal petroleum price and allocation regulations.

(b) This Consent Order settles and finally resolves all aspects of Occidental's potential liability to the DOE under the federal petroleum price and allocation regulations, including but not limited to its capacity as an operator or working interest or royalty interest owner of a crude oil producing property. In addition, if Occidental was the operator of a property that produced crude oil for all or part of the period covered by this Consent Order, the DOE shall not initiate or prosecute any enforcement action against any person for noncompliance with the federal petroleum price and allocation regulations during such period relative to such property. Otherwise, the DOE reserves the right to initiate and prosecute enforcement actions against any person other than Occidental for

noncompliance with the federal petroleum price and allocation regulations, including suits against operators for overcharges for crude oil when Occidental is a working interest or royalty interest owner in such crude oil production. In that connection, Occidental and the DOE agree that the amount paid to the DOE pursuant to this Consent Order is not attributable to Occidental's activities as a working interest or royalty interest owner on properties on which it is not the operator. Furthermore, Occidental and the DOE agree that the Consent Order and the payments hereunder do not resolve, reduce or release the liability of any other person for violations on properties of which (but only for the times during which) Occidental is or was a working interest or royalty interest owner (and not the operator) or affect any rights or obligations between Occidental and the operator or any other working interest or royalty interest owner.

(c) The DOE will not seek or recommend any criminal fines or penalties based on information or evidence presently in its possession for the matters covered by this Consent Order, provided, however, that nothing in this Consent Order precludes the DOE from (1) seeking or recommending such criminal fines or penalties if information subsequently coming to its attention indicates, either by itself or in combination with information or evidence presently known to DOE, that a criminal violation may have occurred, or (2) otherwise complying with its obligations under law with regard to forwarding information of possible criminal violations of law to appropriate authorities. Nothing contained herein may be construed as a bar, estoppel or defense against any criminal or civil action brought by an agency of the United States other than the DOE under (i) Section 210 of the Economic Stabilization Act of 1970 or (ii) any statute or regulation other than the federal petroleum price and allocation regulations. Finally, this Consent Order does not prejudice the rights of any third party or Occidental in any private action, including an action for contribution by or against Occidental.

(d) Occidental releases the DOE completely and for all purposes from all administrative and civil judicial claims, liabilities or causes of action that Occidental has asserted or may otherwise be able to assert against the DOE relating to the DOE's administration of the federal petroleum price and allocation regulations, except that nothing herein is intended to affect in any way any rights Occidental may have to receive a portion of the funds at issue in (1) the proceeding originally styled *The 341 Tract Unit of the Citronelle Field/OXY USA Inc.,* OHA Case No. RF345–00021, and now under review in *Amoco Oil Co., et al.* v. *DOE,* Civil Action No. H–94–2423 (S.D. Tex., filed July 15, 1994), and *R.H. Stechmann, et al.* v. *DOE,* Civil Action No. 94–0887–A-M (S.D. Ala., filed Nov. 17, 1994), and (2) the proceeding pending before OHA styled *Enron Corp./OXY USA Inc.,* OHA Case No. RF340–00112. However, neither this release nor any other provision of this Consent Order precludes Occidental from asserting any factual or legal position or argument as a defense to any action, claim, or proceeding brought by the DOE, the United States, or any agency of the United States. Nor does it preclude Occidental from asserting a defense, counterclaim or offset to any action, claim or proceeding brought by any other person.

(e) Nothing in this Consent Order shall affect any rights Occidental may have to challenge the DOE's failure or refusal to produce documents in response to requests therefor that have been or may in the future be made by Occidental or its attorneys pursuant to the Freedom of Information Act, 5 U.S.C. 502, *et seq.* (''FOIA''), except that Occidental hereby withdraws and waives its rights to have documents produced in response to the following requests: (1) The June 20, 1988 request submitted by Phillips, Nizer, Benjamin, Krim & Ballon (Request No. 8872206R); (2) paragraph 2 of the March 22, 1993 request submitted by Skadden, Arps, Slate, Meagher & Flom (''Skadden'') (Request No. 93032402R); (3) paragraphs 1, 3–8, 13–15 and 17–18 of the June 3, 1993 request submitted by Skadden (Request No. 93060803RG); (4) the October 29, 1993 request submitted by Skadden (Request No. 93110217R); (5) the January 21, 1994 request submitted by Skadden (Request No. 94012510X); and (6) the two September 19, 1994 requests submitted by Skadden (both designated Request No. 94092001GC).

503. (a) Within five (5) days after the execution of the Consent Order by both parties, the DOE and Occidental shall jointly file written notification of the fact of such execution to the OHA. In addition, if, by September 8, 1995, this Consent Order has neither become effective nor has been withdrawn pursuant to Article IX of this Consent Order, DOE and Occidental shall jointly file with the OHA a request that OHA stay or otherwise defer consideration of all further action in the proceeding styled *In the Matter of OXY USA Inc.,* Case No. LRO–0003, until such time as the Consent Order has become effective or been withdrawn pursuant to Article IX. In addition, in the event that the plaintiffs in the actions in the United States District Court for the District of the District of Columbia styled *State of Alabama, et al.* v. *Federal Energy Regulatory Commission, et al.,* Civil Action No. 94–0347–HHG, and *Consolidated Edison Co. of New York, Inc., et al.* v. *Hazel R. O'Leary, et al.,* Civil Action No. 94–0352–HHG, take an appeal prior to the Effective Date of this Consent Order from the decision filed by that court on June 8, 1995 dismissing their complaints, the DOE and Occidental shall, within fifteen (15) days after the filing of such appeal or by July 7, 1995, whichever is later, jointly file with the appellate court or courts written notification that this Consent Order has been executed, which notice shall request that further proceedings on the appeal be suspended until such time as this Consent Order has become effective or has been withdrawn pursuant to Article IX of this Consent Order.

(b) Within fifteen (15) days after the Effective Date of this Consent Order, Occidental and the DOE shall file or cause to be filed appropriate pleadings and will take all other steps necessary to withdraw all claims and dismiss with prejudice all proceedings covered by this Consent Order then pending before OHA or any other administrative tribunal, and to dismiss with prejudice any court proceeding then pending involving an appeal from or seeking review of a decision by the OHA, the Federal Energy Regulatory Commission (''FERC''), a federal district court or a federal court of appeals in any such proceedings. With respect to the court cases referred to in subparagraph (a) above, the requests to dismiss shall, in addition to other grounds for dismissal that might be applicable, recite that the underlying claim that was the subject of the FERC orders under review in those cases has been fully compromised and released by this Consent Order.

504. Execution of this Consent Order constitutes neither an admission by Occidental nor a finding by the DOE of any violation by Occidental of any statute or regulation. The DOE has determined that it is not appropriate to seek to impose civil penalties for the matters covered by this Consent Order, and the DOE will not seek any such civil penalties. None of the payments or expenditures made by Occidental or OXY pursuant to this Consent Order are to be considered for any purpose as penalties, fines, or forfeitures or as settlement of any potential liability for penalties, fines or forfeitures.

505. Notwithstanding any other provision herein, with respect to the matters covered by this Consent Order, the DOE reserves the right to initiate an enforcement proceeding or to seek appropriate penalties for any newly discovered regulatory violations committed by Occidental, but only if Occidental has knowingly concealed material facts relating to such violations. The DOE also reserves the right to seek appropriate judicial remedies, other than full rescission of this Consent Order, for any knowing misrepresentation of fact material to this Consent Order made by Occidental during the course of the audit or the negotiations that preceded this Consent Order.

VI. Recordkeeping, Reporting and Confidentiality

601. Occidental shall maintain such records as are necessary to demonstrate compliance with the terms of this Consent Order. Except for such records, Occidental is relieved of its obligation to comply with the recordkeeping requirements of the federal petroleum price and allocation regulations relating to the matters settled by this Consent Order.

602. Occidental will not be subject to any audit requests, report orders, subpoenas, or other administrative discovery by DOE relating to Occidental's activities subject to such regulations relating to the matters settled by this Consent Order.

603. The DOE shall treat all information provided to it by Occidental pursuant to negotiations which were conducted with respect to this Consent Order as confidential. Nothing herein shall alter or modify in any way the parties' obligations regarding confidentiality set forth in that Mediation Agreement between the DOE, Occidental and other parties entered into by the DOE and Occidental on or about January 13, 1995. Nor shall anything herein be deemed to waive or prejudice any right Occidental may have independent of this Consent Order or such Mediation Agreement regarding the disclosure of confidential information.

VII. Contractual Undertaking

701. It is the understanding and express intention of Occidental and the DOE that this Consent Order constitutes a legally enforceable contractual undertaking that is binding on the parties and their successors and assigns. Notwithstanding any other provision herein, Occidental (and its successors and assigns) and the DOE agree that the sole and exclusive remedy for a breach of this Consent Order shall be the filing of a civil action in an appropriate United States district court, and the DOE also reserves the right to seek appropriate penalties and interest for any failure to comply with the terms of this Consent Order. The DOE will undertake the defense of the Consent Order, as made effective, in response to any litigation challenging the Consent Order's validity in which the DOE, the FERC or any of their officials or employees is named as a party. Occidental agrees to cooperate with the DOE in the defense of any such challenge. Nothing in this Consent Order shall be construed as preventing Occidental from also participating as a party in such defense.

VIII. Final Order

801. Upon becoming effective, this Consent Order shall be a final order of the DOE having the same force and effect as a remedial order issued pursuant to Section 503 of the DOE Act, 42 U.S.C. 7193, and 10 CFR 2O5.l99B. Occidental hereby waives its right to administrative or judicial review of this Order, but Occidental reserves the right to participate in any such review initiated by a third party.

IX. Effective Date

901. This Consent Order shall become effective as a final order of the DOE on the date that notice to that effect is published in the **Federal Register** (the ''Effective Date''). Prior to that date, the DOE will publish notice in the **Federal Register** that it proposes to make this Consent Order final and, in that notice, will provide not less than thirty (30) days for members of the public to submit written comments. The DOE will consider all written comments in deciding whether to adopt the Consent Order as a final order, to withdraw agreement to the Consent Order, or to attempt to renegotiate the terms of the Consent Order.

902. Until the Effective Date, the DOE reserves the right to withdraw consent to this Consent Order by written notice to Occidental, in which event this Consent Order shall be null and void. If this Consent Order is not made effective on or before the one hundred twentieth (120th) day following execution by Occidental, Occidental may, at any time thereafter until the Effective Date, withdraw its agreement to this Consent Order by written notice to the DOE, in which event this Consent Order shall be null and void.

I, the undersigned, a duly authorized representative of Occidental Petroleum Corporation and OXY USA Inc., hereby agree to and accept on behalf of Occidental Petroleum Corporation and OXY USA Inc. the foregoing Consent Order.

Dated: June 27, 1995.

Donald P. de Brier,

Executive Vice President and General Counsel, Occidental Petroleum Corporation.

I, the undersigned, a duly authorized representative of the United States Department of Energy, hereby agree to and accept on behalf of the Department of Energy the foregoing Consent Order.

Dated: June 27, 1995.

Eric J. Fygi,

Deputy General Counsel, U.S. Department of Energy.

[FR Doc. 95–16608 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Impact Statement for Proposed Medical Isotope Production

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The Department of Energy (DOE) announces its intent to hold scoping meetings and prepare an Environmental Impact Statement (EIS) on the proposed domestic production of molybdenum-99 (Mo-99) and related medical isotopes (iodine-125, iodine-131, and xenon-133). The EIS will describe the need for and purpose of the proposed action, the alternatives for satisfying the need (as well as a ''no action'' alternative), and analyze the impacts of producing Mo-99 and related medical isotopes using reasonable alternative facilities.

DATES: Written comments must be postmarked not later than August 7, 1995 to ensure consideration. Comments received after that date will be considered to the extent practicable. The locations, dates and times of the public scoping meetings are included in the Supplementary Information section of this notice, and will also be announced by additional appropriate means. Oral and written comments will be considered equally in the preparation of the EIS.

ADDRESSES: Written comments on the scope of the medical isotope production EIS, or other matters regarding this environmental review, should be addressed to: Mr. Wade Carroll, NEPA Document Manager, Office of Isotope Production and Distribution, NE–70, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland, 20874, Attn: Medical Isotope Production EIS. Mr. Carroll may be contacted by telephone at (301) 903–7731, facsimile (301) 903–5434.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA

process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, Department of Energy, 1000 Independence Ave. SW, Washington, D.C. 20585. Ms. Borgstrom may be contacted by leaving a message at (800) 472–2756 or by calling (202) 586–4600. For general information on the DOE isotope production program, please contact: Mr. Owen W. Lowe, Associate Director, Office of Isotope Production and Distribution, NE–70, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874. Mr. Lowe may be contacted by calling (301) 903–5161.

SUPPLEMENTARY INFORMATION:

Background

For more than forty years, DOE and its predecessor agencies have produced and distributed isotopes for medical and industrial applications through the Department's national laboratories. In 1990, the Congress established the Isotope Production and Distribution Program (IPDP), bringing together under one program all DOE isotope production activities.

Among other activities, the IPDP has been assigned responsibility for ensuring a stable supply of Mo-99 to the United States medical care community. Mo-99 is a short-lived radioactive isotope of molybdenum that results from the fission of uranium atoms. Technetium-99m (Tc-99^m), the most widely used medical radioisotope, is a decay product of Mo-99. Tc-99^m has broad nuclear medicine applications in the areas of diagnostic procedures and medical laboratory tests. The use of Tc-99^m for diagnosis enables definition of conditions in the body that are not currently achievable with any other means except invasive surgery. Also, Tc-99^m concentrates in the area of the body that is of interest, and its short life minimizes the radiation dose received by the patient. Because these isotopes are highly perishable with short lifetimes (the half-lives of Mo-99 and Tc-99^m are 66 hours and 6 hours, respectively), the need to ensure a stable, continuous supply for medical use is critical. The United States medical community accounts for about 60 percent of the worldwide demand for Mo-99/Tc-99^m, yet there is no current domestic source for these isotopes.

Prior to 1989, Mo-99 was produced in the United States by a single supplier, Cintichem, Inc. Cintichem produced Mo-99 by irradiating ''targets'' in a reactor, and later removing the Mo-99 from the targets. In 1989, Cintichem discontinued operation of its production reactor. Since then, the United States has relied on Canadian production reactors for its supply of Mo-99.

Prior to 1993, two Canadian reactors, operated by Atomic Energy of Canada, Limited (AECL) at the Chalk River site (located about 100 miles from Ottawa, Canada) were available to produce Mo-99 through the irradiation of targets. AECL extracted the raw Mo-99 from the targets and provided it to Nordion International, who purified the Mo-99 and shipped it to radiopharmaceutical manufacturers. In 1993, one of the two Canadian reactors was permanently shut down, leaving only the second reactor operating. Any shutdown or extended outage of this nearly 40-year-old reactor would jeopardize the U.S. supply of Mo-99, resulting in a drastic effect on this nation's medical patients who need nuclear medicine care. In April 1995, this reactor suffered an unplanned shutdown for four days. European sources were able to temporarily increase their production enough to cover the European demand normally supplied by Nordion, and Nordion had sufficient product in process to meet the United States demand during this period. However, it was expected that shortages would have begun in the United States if the Canadian reactor had remained out of service for one or two more days.

AECL is considering building two modern 10 megawatt reactors as replacements for the existing reactor. One new plant initially was planned to be put in service by 1998. However, the funding to complete construction of even one of these plants has not yet been identified and committed. In any case, there are apparently no plans to operate the existing reactor beyond the year 2000. Thus, there is a ''window of vulnerability'' for the United States medical community until a new or reliable backup source of Mo-99 can be put in place.

The uncertainties and liabilities of constructing and operating a nuclear reactor have prevented and will likely continue to prevent private companies in the United States from developing a domestic source of Mo-99 to replace the Cintichem reactor. Congress has acknowledged the danger of United States dependence upon a single foreign source for its supply of Mo-99, and has supported DOE's efforts to ensure that a backup capability will be available to produce Mo-99 to meet the needs of the United States medical care community should the Canadian source fail. In Senate Report No. 103–291 accompanying the Energy and Water Development Appropriations Act, 1995, the Committee on Appropriations stated that ''[t]he the United States is fully dependent for 100 percent of the supply of molybdenum-99 and technetium-99^m, both important to nuclear medicine, on sources in Canada which produces (sic) these isotopes in aging facilities. Of particular concern is the lack, since 1990, of a domestic source of molybdenum-99, an isotope used to produce technetium-99^m which is used in approximately 36,000 medical diagnoses per day. The Committee notes that the Department is taking steps to . . . produce molybdenum-99 and related medical isotopes to ensure that there are no inadequacies of supply for domestic use. The committee supports this effort and wishes to be kept informed as the Department progresses.'' Congress provided $7.6 million for this effort for Fiscal Year (FY) 1995, and the President requested $12 million for FY 1996.

Production Processes

Mo-99 can be produced by a number of processes. However, only two processes have been approved by the Food and Drug Administration for Mo-99 sold in the United States: the proprietary process used by Nordion, and the Cintichem process. Both processes produce Mo-99 in a reactor. The Nordion process results in substantial quantities of liquid radioactive waste, while the Cintichem process produces largely solid waste, which is much easier to manage and dispose.

In November, 1991, DOE purchased the Cintichem technology and equipment for $750,000 plus an agreement to pay Cintichem a 4 percent royalty on the first 5 years of sales of Mo-99 and other isotopes produced in the Cintichem process. In addition, DOE agreed to accept the spent nuclear fuel from the Cintichem reactor. Subsequently, the reactor was decommissioned.

Environmental Assessment

A draft environmental assessment (EA), dated February 7, 1995, was prepared and issued for public comment on the proposed action to produce medical isotopes using the Chemistry and Metallurgy Research facility at Los Alamos National Laboratory, in Los Alamos, New Mexico (for target fabrication), and the Annular Core Research Reactor (ACRR) (a small, open pool research reactor of 2 megawatts) and its associated hot cell facilities at the Sandia National Laboratories/New Mexico (for target irradiation and isotope extraction). The public review and comment period for the draft EA ended on May 1, 1995. Based on the

draft EA and comments received, the Department decided that it would be appropriate to prepare an Environmental Impact Statement.

Within DOE, the ACRR at SNL/NM and its associated hot cell facilities are managed by the Office of Defense Programs because the principal use of these facilities has been to support defense research needs. There is a defense-related experiment in progress in the ACRR that is scheduled to be completed in mid-August 1995. Beyond that, the Office of Defense Programs has not currently identified any follow-on work; however, the ACRR must be available to support DP missions in time of emergency for national security reasons. DOE has not yet decided on any specific other uses for the ACRR, although a range of activities are possible for a reactor of this type. These activities could involve other DOE program areas besides the production of Mo-99 and related medical isotopes, as well as work performed for other agencies or organizations, such as the past work performed for the Nuclear Regulatory Commission. In the interim, DOE will physically maintain the reactor, hot cells and associated facilities, and will continue to train the operating staff to maintain their proficiency to meet safe operating standards. DOE will also complete installation of a new control system designed to meet today's standards. In addition, SNL/NM will clean out ''legacy'' waste materials that remain, principally in the hot cells and storage areas adjacent to the reactor.

Proposed Action

The proposed action is for DOE to establish within two years a medical radioisotope production program that would ensure the domestic capability to produce a continual supply of Mo-99 and related medical isotopes (iodine-125, iodine-131, and xenon-133) for United States medical community use. The near-term goal of DOE is to provide a backup capability to supply a baseline production level of 10 to 30 percent of current United States demand for Mo-99 and 100 percent of the United States demand should the Canadian source be unavailable. The baseline production level would serve to maintain the capabilities of the facilities and staff to respond on short notice to supply the entire United States demand on an as-needed basis. The longer term objective is to transfer the process to private industry.

The United States demand is presently about 3,000 6-day curies per week; a 6-day curie is defined as the amount of product, measured in curies, remaining 6 days after the product arrives on the radiopharmaceutical manufacturer's dock. The pharmaceutical manufacturers also require that the specific activity of the product must be at least 10,000 curies of activity per gram of molybdenum when it arrives at the manufacturer's dock.

Proposed Process

DOE proposes to use the Cintichem process as the most expeditious way to satisfy the goals of the proposed action. A brief description of the steps in the process follows.

As the initial step in the proposed Mo-99 production program, targets containing highly enriched uranium would be fabricated, tested and shipped to the reactor facility for irradiation. Target elements would be manufactured by electroplating highly enriched uranium oxide on the inner wall of stainless steel tubes, and then sealing the ends with custom fittings.

At the reactor facility, the targets would be irradiated for several days depending on the power level. Upon removal from the reactor, the irradiated targets would be transferred in a shielded cask to an appropriate hot cell facility, preferably located immediately adjacent to or near the reactor facility because of the short half-life of Mo-99. Within the hot cells, the isotopes of interest would be extracted from the fission product inventory by chemical dissolution and precipitation procedures. The isotopes would be further refined and would undergo strict quality control procedures to meet FDA standards.

Because Mo-99 decays at the rate of about 1 percent per hour, all steps after irradiation of the target and shipment of the product must be expedited. The isotopes would be packaged in Department of Transportation-approved packaging for shipment by air freight on a daily basis to any of the three currently known potential customers: DuPont-Merck in Boston, Massachusetts; Amersham Mediphysics in Chicago, Illinois; and Mallinckrodt in St. Louis, Missouri. Air express class shipments would be used.

The radioactive waste would be both low-level waste (LLW) and spent nuclear fuel. Both types of waste would be managed, stored and eventually disposed of in accordance with applicable requirements and regulations.

Although no mixed waste (waste that is both radioactive and chemically hazardous) would be generated in the isotope extraction process, small amounts of mixed waste would be produced during target fabrication. These mixed waste streams would be managed, stored and disposed of in accordance with applicable requirements and regulations.

During the preparation of the EIS, the Department will conduct laboratory-scale process validation tests to help ensure that the Cintichem process can be accurately reproduced. The results of these tests would be applicable to any site for Mo-99 production using the Cintichem process.

Alternatives

DOE has identified a number of alternatives for the production of Mo-99. Others may be identified during the scoping process. All alternatives will be evaluated against the purpose and need for the proposed action, and those that meet the goals of the proposal will be addressed in detail in the EIS. At this time, DOE's preferred alternative is to use the Cintichem process with Mo-99 target fabrication in the CMR at LANL and target irradiation and isotope separation in the ACRR and associated hot-cell facilities at SNL .

No Action

The Council on Environmental Quality regulations implementing NEPA require that an agency analyze the impacts of not taking the proposed action (the ''No Action Alternative''). In this case, the No Action Alternative would mean that DOE would not establish a backup production capability for Mo-99. The United States medical community would continue to rely on the current Canadian source, or other foreign sources, of radioisotopes.

Alternatives to Accomplish the Proposed Action

There are several existing federally-owned facilities that could be configured to produce Mo-99 and other medical isotopes. Previous studies which narrowed the possible alternatives to a single reactor facility, the ACRR, will be revisited and re-evaluated. Possible additional DOE facilities include:

(1) Omega West Reactor at LANL
(2) Advanced Test Reactor at the Idaho National Engineering Laboratory (INEL)
(3) High Flux Isotope Reactor at the Oak Ridge National Laboratory (ORNL)

The possibility of using non-DOE federally-owned facilities will also be examined.

Alternatives to the Proposed Action

There may be ways to accomplish the goal of the proposed action (i.e., establish a source for the domestic

production of Mo-99) that would use private rather than federally-owned facilities. However, some or all of these alternatives would not be able to meet this goal within the time desired. The alternatives identified below, as well as others which may be identified in the scoping process, will be considered.

(1) *University Reactors:* Several United States universities currently operate research reactors, which are typically small and relatively simple. They also typically do not have hot cell facilities or radio-chemical process facilities. However, in some cases, university reactors have already produced other radioisotopes, and they will be re-evaluated. Universities which have reactor facilities that are of particular interest are listed below:

- The University of Missouri.
- Rhode Island Nuclear Science Center.
- Georgia Institute of Technology.
- Massachusetts Institute of Technology.

(2) New Concepts: New concepts which have been proposed for the production of Mo-99 will be considered. Examples of these new concepts include:

- Medical Isotope Production Reactor (MIPR): The Babcock and Wilcox Corporation (B&W) has submitted an unsolicited proposal to DOE to design, construct and operate a new and unproven reactor concept that uses an aqueous solution of uranyl nitrate contained in an aluminum or stainless steel vessel immersed in a large pool of water to provide both shielding and heat exchange. The reactor could be operated with low-enriched fuel. The Mo-99 would be obtained by on-line extraction of a portion of the uranyl nitrate and passing it through an ion exchange column, where the Mo-99 would be deposited. The uranyl nitrate would then be returned to the reactor. Wastes could be substantially reduced with this concept. B&W believes that a MIPR Mo-99 facility could be run as a profitable business. However, to date, the perceived risks have prevented them from making a corporate commitment to fund such an enterprise without substantial government support.
- Isotopes U.S.A.: Personnel from DOE's Idaho National Engineering Laboratory (INEL) and the University of Idaho have developed a concept, referred to as Isotopes U.S.A. Under this concept, a not-for-profit corporation would be established dedicated to education, research and other scientific purposes relevant to the production and use of stable and radioactive isotopes. The concept includes isotope production and distribution, isotope research, education and training, administration and for-profit isotope ventures. This concept, should it be implemented, could privatize most, if not all, of the current IPDP functions, including the production of Mo-99.

Partial Alternatives

Some alternatives to meet individual portions of the proposed action will be considered in combination with other appropriate processing and irradiation facilities.

Examples are: (1) Alternative Target Fabrication Sites: Alternate target fabrication sites include DOE facilities at LANL, SNL/NM, or ORNL or commercial facilities such as Babcock and Wilcox in Lynchburg, Virginia; Nuclear Fuel Services in Erwin, Tennessee; and General Atomics in San Diego, California. Any alternate fabrication site would manufacture the same target using the selected process.

(2) Alternate Target Processing Sites: Some hot cell facilities may be more effective for post-irradiation processing than the hot cells that are near a candidate reactor, although such arrangements would have to consider the short half-life of Mo-99. Also, if the targets were fabricated at the same facility where the post-irradiation processing is done, there would be the potential that unfissioned uranium from the targets could be recycled back into new targets.

Preliminary Identification of Environmental Issues

The issues listed below have been tentatively identified for analysis in the Medical Isotope Production EIS. This list is presented to facilitate public comment on the scope of the EIS. It is not intended to be all-inclusive or to predetermine the potential impacts of any of the alternatives. DOE seeks public comment on the adequacy and inclusiveness of these issues:

(1) Potential impacts on natural ecosystems, including air quality, surface and ground water quality, and plants and animals;

(2) Potential health and safety impacts to on-site workers and to the public resulting from operations, including reasonable postulated accidents;

(3) Potential health and safety, environmental and other impacts related to the transport of targets and radioisotopes;

(4) Waste management considerations related to the generation, storage and disposal of hazardous waste, LLW, mixed waste and spent nuclear fuel;

(5) Potential cumulative impacts of Mo-99 production operations, including relevant impacts from other past present and reasonably foreseeable activities at the production site;

(6) Potential impacts on cultural resources;

(7) Potential socioeconomic impacts, including any disproportionate impacts on minority and low income populations; and

(8) Potential economic impacts, including those from producing radioisotopes for commercial sector use.

Related NEPA Documentation

NEPA documents that have been or are being prepared for activities related to the proposed action include, but are not limited to, the following:

(1) The LANL Site Wide EIS (a Notice of Intent was published at 60 FR 25697, May 12, 1995) will analyze the cumulative impacts of operations and planned activities foreseen at LANL within the next 5 to 10 years.

(2) An Environmental Assessment for SNL/NM Offsite Transportation of Low-Level Radioactive Waste is currently being prepared which will evaluate the shipment of both existing inventories of LLW accumulated at SNL/NM since 1988 and LLW projected to be newly generated at SNL/NM in the foreseeable future.

(3) The Programmatic Environmental Impact Statement for Waste Management will address waste management alternatives for existing and proposed actions and DOE complex-wide issues associated with long-term waste management policies and practices. An Implementation Plan for this Programmatic EIS was issued in January 1994.

(4) The Programmatic Environmental Impact Statement for Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management addresses the management of DOE-owned spent nuclear fuel. A Record of Decision for the Programmatic EIS was published in the **Federal Register** on June 1, 1995.

Public Involvement Opportunities

DOE will develop a public (''stakeholder'') involvement plan for this EIS process. To assist with developing the stakeholder involvement plan, the DOE requests suggestions by the public on how this EIS process should be conducted, including suggestions regarding the type, format, and conduct of public involvement opportunities.

Through this notice, the DOE formally invites States, tribes, other government agencies, and the public to comment on the scope of this EIS. The locations,

dates and times for these public meetings are:

Idaho National Engineering Laboratory—July 24, 1995, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Shilo Inn, 780 Lindsay Blvd., Idaho Falls, ID 83402, Ph. (208) 536–0805

Oak Ridge National Laboratory—July 26, 1995, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Pollard Auditorium, 210 Badger Avenue, Oak Ridge, TN 37830, Ph. (615) 576–0885

Sandia National Laboratories/Albuquerque—July 31, 1995, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Albuquerque Convention Center, Cochiti/Taos Rooms, 401 2nd Street, N.W., Albuquerque, NM 87102, Ph. (505) 845–6094

Los Alamos National Laboratory—August 1, 1995, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Hilltop House, 400 Trinity Drive, Los Alamos, NM 87544, Ph. (505) 665–4400

A second formal opportunity for comment will be provided after DOE issues the Draft EIS. Public hearings will be held in conjunction with the comment period for the Draft EIS.

In addition to formal opportunities for comment, anyone may submit comments at any time during the NEPA process; however, to ensure that comments are considered at specific points in the NEPA review process, and to best assist DOE, the public is encouraged to comment during the formally established comment periods.

Copies of design and other background documents, written comments, records of public meetings, and other materials related to the development of the EIS have been and are being placed in DOE Reading Rooms at the following locations:

DOE Headquarters, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C., 20585, phone (202) 586–3142;

National Atomic Museum, Building 20358, Wyoming Blvd., Kirtland Air Force Base, New Mexico 87185, phone (505) 845–4378;

Los Alamos National Laboratory Community Reading Room, 1450 Central Avenue, Suite 101, Los Alamos, New Mexico 87544, phone (505) 665–2127;

Idaho Operations Office, Idaho Public Reading Room, 1776 Science Center Drive, Idaho Falls, Idaho, 83402, phone (208) 526–0271; and

Oak Ridge Operations Office, Public Reading Room, 55 Jefferson Circle, Room 112, Oak Ridge, Tennessee, 37831, (615) 241–4780.

Issued in Washington, D.C., this 30th day of June 1995, for the United States Department of Energy.

Peter N. Brush,

Principal Deputy Assistant Secretary, Environment, Safety and Health.

[FR Doc. 95–16609 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Metal Casting Industrial Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the Metal Casting Industrial Advisory Board meeting.

DATES: August 1, 1995, 8:30 AM–5:30 PM and August 2, 1995, 9:00 AM–11:15 AM.

ADDRESSES: Milwaukee River Hilton, 4700 North Port Washington Road, Milwaukee, Wisconsin 53212.

FOR FURTHER INFORMATION CONTACT: Douglas E. Kaempf, Program Manager, Department of Energy, Office of Industrial Technologies (EE–23), 1000 Independence Ave. S.W., Washington, D.C. 20585, (202) 586–5264, Fax: (202) 586–3180.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Metal Casting Industrial Advisory Board serves to provide guidance and oversight of research programs provided under the Metal Casting Competitiveness Research Program and to recommend to the Secretary of Energy new or revised program activities and Metal Casting Research Priorities.

Tentative Agenda

August 1, 1995

8:30—Sign-In
9:00–9:30—Opening Remarks; Douglas Kaempf
9:30–10:30—Presentations of FY95 funded projects and management plans (30 minutes each)
Case Western Reserve University; John Wallace
University of Alabama—Tuscaloosa/Florida A&M; Thomas Piwonka
10:30–10:45—Break
10:45–11:45—Continue presentations of FY95 funded projects and management plans (30 minutes each)
University of Alabama—Birmingham (Lost Foam Technology); Charles Bates
University of Alabama—Birmingham (Clean Casting); Charles Bates
11:45–1:00—Lunch (On your own)
1:00–2:00—Continue presentations of FY95 funded projects and management plans (30 minutes each)
Ohio State University (Deflection of Die Casting Dies); E. Allen Miller
Ohio State University (Visualization Tools for Die Casting); E. Allen Miller
2:00–3:00—Open discussion regarding project presentations; Board Members
3:00–3:15—Break
3:15–5:00—Development of Research Priorities; Board Members

August 2, 1995

9:00–10:00—Development of Board Subcommittees; Board Members
10:00–10:15—Break
10:15–11:15—Public Comment; Public
11:15—Meeting Adjournment; Derek Cocks, Co-Chairman, Dean Peters, Co-Chairman

Public Participation

The meeting is open to the public. The Chairperson of the Board is empowered to conduct the meeting to facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to the agenda items should contact Douglas E. Kaempf at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. Written statements may be filed with the Committee either before or after the meeting.

Transcript

Detailed meeting minutes will be available for public review and copying at the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 9:00 AM and 4:00 PM, Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on June 30, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–16610 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Sandia Site (Kirtland Area Office)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act

(Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Sandia Site (Kirtland Area Office).

DATES: Thursday, July 20: 7:00 pm–10:00 pm (Mountain Daylight Time).

ADDRESSES: Indian Pueblo Cultural Center, 2401 12th St. NW., Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

7:00 pm—Consensus Training/Team Building
8:00 pm—Scope, Purpose, and Overview of the Board
9:00 pm—Defining Environmental Issues of Concern
9:45 pm—Public Comment Period
10:00 pm—Adjourn

A final agenda will be available at the meeting Thursday, July 20, 1995. Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above.

Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC, on June 30, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–16611 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES:

Monday, July 24, 1995: 6:00 p.m.–7:00 p.m. (public comment session); 7:00 p.m.–9:00 p.m. (subcommittee meetings)
Tuesday, July 25, 1995: 8:30 a.m. to 4:00 p.m.

ADDRESSES: The public comment session, subcommittee meetings and Board meeting will be held at: The Aiken Conference Center—Aiken Municipal Building, 215 The Alley, Aiken, South Carolina 29803.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Monday, July 24, 1995

6:00 p.m.—Public Comment Session (5-minute rule)
7:00 p.m.—Subcommittee Meetings
9:00 p.m.—Adjourn

Tuesday, July 25, 1995

8:00 a.m.—Registration
8:30 a.m.—Approval of minutes, Agency updates and Facilitator report
9:00 a.m.—Motion on Formation of an Outreach Subcommittee
9:30 a.m.—Discussion of Implementation of Board Recommendations
10:00 a.m.—Risk Management and Future Use Subcommittee Report
10:30 a.m.—Break
10:45 a.m.—Membership Subcommittee Report
11:15 a.m.—Nuclear Materials Management Subcommittee Report
12:00 noon—Lunch
1:00 p.m.—Environmental Remediation & Waste Management Subcommittee Report
3:30 p.m.—Public Comment Session (5-minute rule)
4:00 p.m.—Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details.

A final agenda will be available at the meeting Monday, July 24, 1995.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803) 725–8074.

Issued at Washington, DC, on June 30, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–16611 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Monticello Site (Grand Junction Project Office)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Board Committee Meeting: Environmental Management Site-Specific Advisory Board, Monticello Site (Grand Junction Project Office).

DATES AND TIMES: Tuesday, July 18, 1995 7:00 p.m.–8:00 p.m.

ADDRESSES: Monticello City Office, 17 North 1st East, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO, 81502 (303) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

The Environmental Management Site-Specific Advisory Board, Monticello Site, will be discussing reports from subcommittees on local training and hiring, health safety, budget, future land use, and repository design.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (303) 248–7727.

Issued at Washington, DC on June 30, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–16613 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 95–46–NG]

Jonan Gas Marketing Inc.; Order Granting Blanket Authorization to Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Jonan Gas Marketing Inc. blanket authorization to import and export a combined total of up to 100 Bcf of natural gas from and to Canada over a two-year term beginning on the date of the first import or export after October 31, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 21, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16614 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P]

[FE Docket No. 95–43–NG]

Multi-Energies U.S.A. Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada and Mexico and To Export Natural Gas to Canada and Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Multi-Energies U.S.A. Inc. authorization to import up to a combined total of 36.5 Bcf of natural gas from Canada and Mexico and to export up to a combined total of 36.5 Bcf of natural gas to Canada and Mexico. The term of this authorization is for a period of two years beginning on the date of the initial import or export delivery, whichever occurs first.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 22, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16615 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–37–NG]

AIG Trading Corporation; Order Granting Blanket Authorization to Import and Export Natural Gas From and to Canada and Mexico and Vacating Authorizations

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting AIG Trading Corporation (AIG) authorization to import up to 200 Bcf and to export up to 200 Bcf of natural gas from and to Canada, and to import up to 200 Bcf and to export up to 200 Bcf of natural gas from and to Mexico. This import/export authorization shall extend for a period of two years beginning on the date of the initial import or export delivery, whichever occurs first. In conjunction with this new authorization, two import authorizations previously issued to AIG, DOE/FE Order No. 805 (1 FE ¶ 70,799) and DOE/FE Order No. 840 (1 FE ¶ 70,842), have been vacated.

AIG's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 23, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16616 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP95–576–000]

Northwest Pipeline Corporation; Application

June 29, 1995.

Take notice that on June 22, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed an abbreviated application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of Public convenience and necessity authorizing Northwest to increase the storage withdrawal contract demand provided under Rate Schedule SGS–1 for certain existing storage service customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northwest ways that Washington Natural Gas Company (Washington Natural), Project Operator of the Jackson Prairie Storage Project (Jackson Prairie), has requested certificate authorization in Docket No. CP95–300–000 to construct additional storage facilitates and to inject 0.4 Bcf of additional cushion gas at Jackson Prairie in order to increase the maximum firm withdrawal capacity by 100,000 Mcf per day. Each of the three owners of Jackson Prairie, Washington Natural, Northwest and the Washington Water Power Company (Water Power) have a right to one-third of the resulting increased withdrawal capacity. As the designated storage provider for all capacity at Jackson Prairie, Northwest has entered into the necessary replacement storage service agreements to reflect allocations among existing storage customers of the planned additional 102,800 Dth per day (100,000 Mcf x 1.028dth/Mcf) of firm withdrawal capacity.

Northwest states that its one-third share of the increased withdrawal capacity, 34,266 Dth per day, was offered in an ''open-season'' process to all customers with existing Rate Schedule SGS–1 or SGS–2F service agreements for Jackson Prairie capacity owned by Northwest. As a result, six SGS–2F customers contracted for a total of 15,182 Dth per day additional withdrawal contract demand, which Northwest will self-implement under this Part 284, Subpart G blanket transportation certificate, and two SGS–1 customers contracted for 19,084 Dth per day additional withdrawal contract demand.

Further, Northwest says that it has entered into replacement SGS–1 service agreements with Northwest Natural Gas Company, Washington Natural and Water Power which cover both the 19,084 Dth per day of Northwest's share of the increased Jackson Prairie withdrawal capacity plus all of the Washington Natural and Waster Power ownership shares of 34,267 Dth per day each. Since Rate Schedule SGS–1 service is certificated on a case-by-case basis, Northwest specifically requests certificate authority to provide a total of 87,618 Dth per day of additional Rate Schedule SGS–1 withdrawal contract demand for these three existing customers, to be effective upon Washington Natural's completion of its proposed project to expand the withdrawal capacity of Jackson Prairie.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein mut 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 permission and approval for the proposed construction and operations 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 necessary for Northwest to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16501 Filed 7–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–579–000]

Northwest Pipeline Corporation; Request Under Blanket Authorization

June 29, 1995.

Take notice that on June 23, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP95–579–000 a request pursuant to Sections 157.205, 157.216 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216, 157.211) for authorization to abandon certain facilities and to construct and operate upgraded replacement facilities, under Northwest's blanket certificate issued in Docket No. CP82–433–000 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.

Northwest promises to increase the capacity of its existing Soda Springs Meter Station, located in Caribou County, Idaho to accommodate a request by Intermountain Gas Company (Intermountain) for additional service at this point. Northwest states that it would remove and retire four 2-inch regular, port regulators and install four new 2-inch large, port regulators to increase the maximum design delivery capacity from 10,070 Dth of gas per day to 12,517 Dth of gas per day. Northwest mentions that no reallocation of existing firm, maximum daily delivery obligations have been requested.

Northwest states that the total cost of the proposed facility upgrade would be approximately $12,572 which includes $300 for removal of the old regulators. Northwest avers that Intermountain has agreed to reimburse Northwest for these costs pursuant to provisions in Northwest's tariff.

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. 95–16500 Filed 7–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR95–13–000]

AOG Gas Transmission Company, L.P.; Petition for Rate Approval

June 29, 1995.

Take notice that on May 25, 1995, AOG Gas Transmission Company, L.P. (AOG) filed pursuant to Section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve as fair and equitable rates of $0.0909 per MMBtu for transportation services performed in Oklahoma and $0.1331 per MMBtu for transportation services performed in New Mexico under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). AOG proposes an effective date of July 1, 1995.

AOG states that it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA. AOG is the successor, with respect to the Oklahoma and New Mexico facilities, to Picor Pipeline Company.

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before July 17, 1995. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16498 Filed 7–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–357–000]

Sabine Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

June 29, 1995.

Take notice that on June 27, 1995, Sabine Pipe Line Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets proposed to be effective July 1, 1995:

First Revised Sheet No. 253
First Revised Sheet No. 254
First Revised Sheet No. 267
First Revised Sheet No. 268

Sabine states that the purpose of the filing is to revise Sabine's capacity release tariff provisions set forth in Section 10 of the General Terms and Conditions of its Volume No. 1 Tariff to comply with changes in 284.243(h) of the Commission's Regulations pursuant to Orders 577 and 577–A. Specifically, the revisions: (1) extend the maximum term of pre-arranged capacity releases at less than the maximum rate that are exempt from bidding requirements to thirty-one days, and (2) reduce the restriction period from thirty days to twenty-eight days for re-releasing capacity exempt from advance posting and bidding to the same pre-arranged shipper.

Sabine states that to date, there have been no prearranged releases of capacity that would be affected by the revised regulations, and Sabine requests that the revised tariff sheets be allowed to take effect July 1, 1995, concomitant with the effective date of Order 577–A. Sabine respectfully requests that the Commission grant a waiver of 154.22 of its Regulations, and any other waivers that may be necessary, in order that the enclosed tariff sheets be made effective as proposed herein.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

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, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 7, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16497 Filed 7–5–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6117–005; Utah]

City of Ephraim; Availability of Environmental Assessment

June 29, 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 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed an application to amend the license for Ephraim City Power Project, located on New Canyon Creek, in Sanpete County, Utah. The application's major proposed change is: the inclusion of a water storage tank as a project feature. An Environmental Assessment (EA) was prepared for the application. In the EA, the Commission staff finds that approving the 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 Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426. For further information, please contact Mr. Jon Cofrancesco at (202) 219–0079.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16499 Filed 7–5–95; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Parker-Davis Project—Proposed Firm Power Rates, Firm and Non-Firm Transmission Service and Transmission Service for Salt Lake Integrated Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension of comment period.

SUMMARY: Western Area Power Administration (Western) is announcing

an extension of the consultation and comment period on the rate increases for Firm Power, Firm and Non-Firm Transmission from the Parker-Davis Project, and Firm transmission service for SLCA/IP. These rates were originally announced in the **Federal Register** on March 21, 1995, at 60 FR 14935–14936.

This Act is taken in response to public comments that additional time is needed for review and comments on the following issues: (1) the most current operation and maintenance numbers for the Bureau of Reclamation, (2) the current multi-project costs and revenues, (3) the new methodology for interest offsets, (4) the compound interest amortization for repayment of Parker-Davis investments, (5) the 5-year cost ratesetting methodology, (6) the annual carry-over of revenues, (7) the crosswalk adjustments.

PROCEDURES: Concurrently with publication of this notice, a letter explaining the changes in detail along with a revised power repayment study will be distributed to the Parker-Davis power and transmission customers, to the SLCA/IP transmission customers, and to other interested parties. Customers and interested parties are invited to comment on the proposed rates and the methodology used to develop the rates. Comments already submitted will be given full consideration in this extended comment period and do not need to be resubmitted.

Following the close of the consultation and comment period. Western will prepare another power repayment study which will include any changes due to consideration of public comments. Western will recommend the results of those studies as the final proposed rates to the Deputy Secretary to be placed in effect on an interim basis prior to submission to the Federal Energy Regulatory Commission (FERC) for approval on a final basis.

EFFECTIVE DATE: The consultation and comment period will be extended to July 12, 1995. Written comments should be received by the end of the consultation and comment period to be assured consideration. Comments may be sent to: Mr. Tyler Carlson, Area Manager, Western Area Power Administration, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2523.

SUPPLEMENTARY INFORMATION: Power and transmission rates for the Parker-Davis Project are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) and the Reclamation Act of 1902 (43 U.S.C. 388 *et seq*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project of 1939 (43 U.S.C. 485h(c)) and other acts specific to the project.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustment (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

AVAILABILITY OF INFORMATION: All brochures, studies, comments, letters, memoranda, and other documents made or kept by Western for the purpose of developing the proposed rates for firm power and firm and nonfirm transmission service are and will be made available for inspection and copying at the Phoenix Area Office, located at 615 South 43rd Avenue, Phoenix, AZ 85005.

Issued in Golden, Colorado, June 26, 1995.

J.M. Shafer,

Administrator.

[FR Doc. 95–16618 Filed 7–5–95; 8:45 am]

BILLING CODE 6450–01–P–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5255–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 7, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, or for a copy of this ICR, contact Sandy Farmer at (202) 260–2740, please refer to EPA ICR #1587.03.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Clean Air Act, Title V—Operating Permits Regulations—Information Requirements, (EPA ICR #1587.03; OMB #2060–0234).

Abstract: This ICR is for an extension of an existing information collection in support of the Clean Air Act, as described in 40 CFR Part 70 establishing the minimum elements governing the development of State operating permit programs. Under this ICR, state and local government permitting authorities and stationary sources of air pollution will incur costs and burden.

Permitting authorities have been working on their Title V programs since the promulgation of the original ICR on 7/1/92. EPA is currently reviewing Title V programs submitted by State and local agencies. State and local authorities must provide EPA with the following: (1) Title V permit program; (2) permit applications and proposed permits; and (3) upon occurrence, applications for permit revisions and proposed revisions.

Under this ICR owners and operators of affected sources must provide the State or local permitting authority with: (1) An operating permit application every 5 years; (2) semi-annual submission of monitoring or recordkeeping data; (3) annual certification of compliance; and (4) upon occurrence, applications for permit revisions. Sources must maintain all records that are representative of compliance with the Title V program.

Burden Statement: Total annual public reporting burden for this collection of information is estimated to be 648,293 hours, for an average of 5,788 hours per respondent, including time for reviewing instructions, searching existing data sources, gathering the data needed, completing the collection of information and maintaining records.

Respondents: State and local governments and stationary sources.

Estimated Total Annual Burden on Respondents: 648,293 hours.

Estimated Number of Respondents: 112.

Frequency of Collection: Semi-annually, annually, upon occurrence and every 5 years.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR #1587.03 and #2060–0243) to:

Sandy Farmer, EPA ICR #1587.03, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW, Washington, DC 20460.

and

Chris Wolz, OMB #2060–0243, Office of Management and Budget, Office of Information and Regulation Affairs, 725 17th Street, NW., Washington, D.C. 20503.

Dated: June 30, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–16558 Filed 7–5–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5255–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR #1352.03.

Office of Solid Waste and Emergency Response

Title: Community Right-to-Know Reporting Requirement (EPCRA sections 311 and 312)—EPA #1352; OMB #2050–0072.

Abstract: Section 311 of the Emergency Planning and Community Right-to-Know Act (EPCRA) allows the public to have access to the same Material Safety Data Sheets (MSDSs) as facilities provide for their employees. In order to have to report, a facility must be required to have or maintain MSDSs for hazardous chemicals under the Hazard Communication Standard of the Occupational Safety and Health Administration (OSHA). The owner and/or operator of the facility would need to submit the MSDS (or a list of subject chemicals) to their state emergency response commission (SERC), their local emergency planning committee (LEPC) and their local fire department for all hazardous chemicals it has over the reporting thresholds. The current reporting thresholds are 10,000 pounds unless the chemical is specifically listed as an extremely hazardous substance under EPCRA section 302, whereby the reporting threshold becomes 500 pounds or the threshold planning quantity (TPQ), whichever is less.

This one-time requirement was due October 17, 1987. However, facilities need to submit updates to the list or MSDSs, within three months, when a hazardous chemical comes on-site above the reporting threshold. If significant new information arises concerning a previously submitted MSDS, a facility must submit the revised MSDS. Additionally, if the SERC or LEPC receives a request, the facility needs to provide the MSDS even if the hazardous chemical is stored below the reporting threshold.

Section 312 of EPCRA requires EPA to publish two Emergency and Hazardous Chemical Inventory Forms known as ''Tier I'' and ''Tier II.'' A facility that needs to submit the MSDSs or list in section 311, needs to submit a Tier I Form annually on March 1, incorporating the chemicals reported under section 311. These Tier I Forms are submitted to the SERC, LEPC and local fire department.

The Tier I form includes the following information as required by the statute:

- An estimate in ranges of the maximum amount of hazardous chemicals in each hazard category present at the facility at any time during the previous year;
- An estimate in ranges of the average daily amount of hazardous chemicals in each hazard category.

EPA has added the following information by regulation:

- Primary SIC code and Dunn and Bradstreet Number (added to facilitate entering and sorting the information on a computer).
- Two emergency contacts (added to give SERCs, LEPCs and fire departments a contact at the facility who could clarify information at any time, particularly in the event of an emergency).
- Number of days on-site produces a more accurate figure for average daily amount, particularly for those chemicals that are on-site for only a short period of time each year.

The Tier II Form requires facilities to provide chemical specific inventory information. It only needs to be submitted if it requested by the SERC or LEPC.

Section 311 allows emergency responders to know the hazards associated with the facility's chemicals before they come on-site.

Local planners can use their information to supplement the emergency planning requirements under section 303 of EPCRA. The community is allowed to have this information under ''community right-to-know,'' in a way to allow the community to understand the hazards of chemicals in their community.

The annual inventory under section 312 of EPCRA is used in conjunction with the information provided under section 311 to link the quantity and location of chemicals with the hazards associated with the chemicals.

Burden Statement: The average reporting burden for regulated facilities is estimated to be 2,952,764 hours. This estimate includes determination of reporting obligation, submission of MSDSs (or list), and the development and submission of Tier I and Tier II forms.

The average burden on states and local communities (SERCs and LEPCs) is estimated to be 2,987 hours. This estimate includes providing MSDSs and Tier I/Tier II forms upon request.

Respondents: All states are required to create state emergency response commissions (SERCs) and local emergency planning committees (LEPCs). Both the manufacturing and non-manufacturing sectors are subject to these requirements.

Estimated No. of Respondents: 869,809 (866,285 facilities, 3,524 state/local communities).

Estimated Number of Responses Per Respondent: 1.

Frequency of Collection: Annual.

Estimated Total Annual Burden Costs: 2,955,751 hours.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR #1352.03) to:

Sandy Farmer, EPA ICR #1352.03, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M Street SW., Washington, DC 20460.

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

Dated: June 29, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–16559 Filed 7–5–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5255–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 7, 1995.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR #1734.02.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxics

Title: Use and Exposure Information Voluntary Project. (EPA ICR No.: 1734.02). This is a new collection.

Abstract: EPA will collect, from members of the chemical industry, use and exposure information on chemical substances in commerce that are subject to OPPT's Risk Management (RM) review process. Members of the chemical industry will report data on exposures at manufacturing sites as well as information on subsequent exposures by users of the substances in commerce.

Participation is strictly voluntary; however, EPA anticipates a high response rate because of the active participation of the major chemical industry trade associations in the development of the questionnaire.

EPA amended this ICR to respond to comments received from the public.

EPA will use the information collected under this ICR to meet their responsibility under the Existing Chemicals Program to screen, assess and develop strategies for managing risks posed by chemical substances in commerce.

Burden Statement: Burden for this collection of information is estimated to average 10 hours per respondent for reporting. There is no recordkeeping requirement. This estimate includes the time needed to review instructions, gather and submit the information, and report the information.

Respondents: Manufacturers and importers of chemical substances.

Estimated number of respondents: 120 respondents.

Estimated number of responses per respondents: 1.

Estimated total annual burden on respondents: 1,200 hours.

Frequency of collection: Twice a year.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, (please refer to EPA ICR #1734.02 to:

Sandy Farmer, EPA ICR #1734.02, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M Street, S.W., Washington, D.C. 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, N.W., Washington, D.C. 20503.

Dated: June 29, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–16560 Filed 7–5–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5254–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR #1395.02.

Office of Solid Waste and Emergency Response

Title: Emergency Planning and Release Notification Requirements (EPCRA sections 302, 303, and 304)—EPA #1395.02; OMB #2050–0092). This ICR requests reinstatement of a previously approved ICR.

Abstract: The Emergency Planning and Community Right-to-Know Act (EPCRA) established broad emergency planning and facility reporting requirements. Section 302 (40 CFR 355.30) requires any facility here an extremely hazardous substance (EHS) is present in an amount at or in excess of the threshold planning quantity (TPQ) to notify the state emergency response commission (SERC) by May 17, 1987. This activity has been completed; the section 302 costs and burden hours for this ICR, therefore, reflect only the estimate of the cost and burden incurred by those additional facilities who come to have an EHS in excess of the PQ during the years 1995 through 1998.

Section 303 (40 CFR 355.30) requires local emergency planning committees (LEPCs) to prepare emergency plans for facilities that have EHSs in excess of the TPQ's in their local planning district. Facilities are required to provide local planners with information necessary for the preparation of emergency plans. In addition, the facilities are required to inform LEPCs of any relevant changes in chemical use or production that may effect the emergency plans. Section 303 requires LEPCs to complete their emergency plans by October 17, 1988. This ICR therefore reflects the costs attributable to the requirement of annually updating the local emergency response plans.

Section 304 (40 CFR 355.40) requires facilities to report to SERCs and LEPCs releases in excess of quantities established by EPA. Facilities are required to report releases above the reportable quantity (RQ) of any EHS or other hazardous substance identified under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Notice of release must be given to both the LEPC and SERC. In addition, facilities must provide a written follow-up report providing additional information on the release, its impacts, and any actions taken in response.

Burden Statement: The average reporting burden for regulated facilities is estimated to be 175,941 hours. This estimate includes the notification that the facility is subject, informing LEPCs of any changes which may affect emergency planning, notification of emergency releases, and the development and submittal of written follow-up notices after reportable releases.

The average burden on state and local entities (SERCs and LEPCs) is estimated to be 796,721 hours. This estimate includes updating emergency plans (LEPCs), review of emergency plans (SERCs), and the retention of records of all emergency response plans, MSDSs, and inventory forms and make them available to the public.

Respondents: All states are required to create State Emergency Response

Commissions (SERCs) and Local Emergency Planning Committees (LEPCs). Both the manufacturing and non-manufacturing facilities are subject to these requirements.

Estimated No. of Respondents: 31,556 (28,032 facilities; 3,524 state/local communities).

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: Occasional.

Estimated Total Annual Burden on Respondents: 972,662 hours.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR #395.02) to:

Sandy Farmer, EPA ICR #1395.02, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M Street, S.W., Washington, D.C. 20460.

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, N.W., Washington, D.C. 20530.

Dated: June 29, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–16561 Filed 7–5–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5254–3]

Technical Advisory Subcommittee; Notice of Open Meeting

The Technical Advisory Subcommittee to the Clean Air Act Advisory Committee will hold its opening meetings July 25th from 1 p.m. to 5 p.m. and July 26th from 9 a.m. to 12 noon at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Washington, DC. These meetings are open to the public.

The Subcommittee is established to provide the Office of Mobile Sources independent counsel and advice on scientific and technical aspects of its program. The Subcommittee will create working groups to evaluate technical materials and approaches in the topics of Modeling, In-Use Deterioration, Certification Program Reform, and Engine, Vehicle and Fuel Standards.

Anyone wishing to speak at either or both of the above sessions should make a request in writing to Katherine McMillan, Office of Mobile Sources, OAR, Mail Code 6401, U.S. Environmental Protection Agency, Washington, DC 20460. Public statements will be limited to 10 minutes. For more information, please contact Katherine McMillan at (202) 260–3420 or FAX (202) 260–6011.

Katherine H. McMillan,

Designated Federal Officer, OMS, OAR.

[FR Doc. 95–16562 Filed 7–5–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before September 5, 1995.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Donald Arbuckle, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Muriel B. Anderson, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2624.

Type: Extension of 3067–0206.

Title: Financial and Technical Assistance Under Performance Partnership Agreements.

Abstract: Beginning in fiscal year 1996, this collection of information will encompass the financial and administrative reporting and recordkeeping requirements associated with FEMA functional and program activities funded under Performance Partnership Agreements with State and local governments. The specific information collections include: SF 424, Application for Federal Assistance; the Indirect Cost Agreement; FEMA Form 20–20, Budget Information—Nonconstruction Programs; FEMA Form 20–15, Budget Information—Construction Programs; FEMA Form 20–16, Summary Sheet for Assurances and Certifications; FEMA Form 76–10A, Obligating Document for Award/Amendment; FEMA Form 20–10, Financial Status Report; Program Narrative Statement/Performance Report form; FEMA Form 20–17, Outlay Report and Request for Reimbursement for Construction Programs; Budget/Program Deviations; FEMA Form 20–18, Report of Government Property; and four modular instructions for completing these information requirements.

Type of Respondents: States, Local or Tribal Government.

Estimate of Total Annual Reporting and Recordkeeping Burden: 27,240 hours.

Number of Respondents: 56.

Estimated Average Burden Time per Response: 486 hours.

Frequency of Response: Annually, semiannually, quarterly, and as required.

Dated: June 16, 1995.

Linda S. Borror,

Acting Director, Program Services Division Operations Support Directorate.

[FR Doc. 95–16592 Filed 7–5–95; 8:45 am]

BILLING CODE 6718–01–P

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before September 5, 1995.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Donald Arbuckle, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Muriel B. Anderson, FEMA Information Collections Clearance Officer, Federal Emergency

Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2624.

Type: Reinstatement of 3067–0201.

Title: Federal Assistance for Offsite Radiological Emergency Planning and Preparedness under Executive Order 12657.

Abstract: In accordance with Executive Order 12657 and under FEMA regulation 44 CFR Part 352, FEMA will need certain information from nuclear power plant licensees to determine whether State or local governments have declined or failed to prepare commercial nuclear power plant radiological emergency preparedness plans that meet NRC licensing requirements or to participate in the preparation, demonstration, testing, exercise or use of such plans. Also, when a licensee requests Federal facilities or resources, FEMA will need information from the NRC as to whether the licensee has made maximum use of its resource and the extent to which the licensee has complied with 10 CFR 50.47(c)(1) and 44 CFR 352.5.

Type of Respondents: State, Local or Tribal Government, and Businesses or other for-profit.

Estimate of Total Annual Reporting and Recordkeeping Burden: 160 hours.

Number of Respondents: 1.

Estimated Average Burden Time per Response: 160 hours.

Frequency of Response: On occasion.

Dated: June 19, 1995.

Linda S. Borror,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 95–16593 Filed 7–5–95; 8:45 am]

BILLING CODE 6718–01–P

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before September 5, 1995.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Donald Arbuckle, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Muriel B. Anderson, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2624.

Type: New collection.

Title: FEMA/FIA Cover America Project (Marketing Program).

Abstract: The Federal Emergency Management Agency will be conducting marketing research surveys through focus groups and telephone interviews. The data will be used for the development of a marketing strategy to increase awareness of the National Flood Insurance Program and the sale of flood insurance. FEMA will survey current flood insurance policyholders, potential policyholders, and insurance agents.

Type of Respondents: Individuals or households; business or other for-profit; not-for-profit institutions.

Estimate of Total Annual Reporting and Recordkeeping Burden: Average of 1,695 hours.

Number of Respondents: 3,327.

Estimated Average Burden Time per Response: Focus groups—2 hours; telephone survey—45 minutes; tracking poll—15 minutes.

Frequency of Response: On occasion.

Dated: June 13, 1995.

Linda S. Borror,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 95–16594 Filed 7–5–95; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–1057–DR]

Tennessee; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1057–DR), dated June 14, 1995, and related determinations.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee dated June 14, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 14, 1995:

The counties of Lake and Lauderdale for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–16590 Filed 7–5–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1056–DR]

Texas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas, (FEMA–1056–DR), dated June 13, 1995, and related determinations.

EFFECTIVE DATE: June 29, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas dated June 13, 1995, is hereby amended to include Hazard Mitigation Assistance for the following area determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 13, 1995:

The county of Tom Green for Hazard Mitigation Assistance. (Already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–16591 Filed 7–5–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 560.602 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200942.

Title: Port of Houston Authority/ Strachan Shipping Company Guarantee Assignment Number 25 and 26W Terminal Agreement.

Parties: Port of Houston Authority (''Port''), Strachan Shipping Company (''Strachan Shipping'').

Filing Agency: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes Strachan Shipping to perform freight handling services at the Port's Wharves and Transit Sheds Number 25 and 26W. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200943.

Title: Port of Houston Authority/ Fairway Terminal Corporation Guarantee Assignment Number 26E Through 29 Terminal Agreement.

Parties: Port of Houston Authority (''Port''), Fairway Terminal Corporation (''Fairway'').

Filing Agency: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes Fairway to perform freight handling services at the Port's Wharves and Transit Sheds Number 26E through 29. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200944.

Title: Port of Houston Authority/ Strachan Shipping Company Tonnage Assessment Assignment Number 2, Section B (West) Terminal Agreement.

Parties: Port of Houston Authority (Port''), Strachan Shipping Company (''Strachan Shipping'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes Shipping to perform freight handling services at the Port's Wharves and Transit Sheds Number 2, Section B (West). The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200945.

Title: Port of Houston Authority/ James J. Flanagan Stevedores Guarantee Assignment Number 21 Through 23 Terminal Agreement.

Parties: Port of Houston Authority (Port''), James J. Flanagan Stevedores (''JJFS'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes JJFS to perform freight handling services at the Port's Wharves and Transit Sheds Number 21 through 23. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200946.

Title: Port of Houston Authority/ Shippers Stevedoring Company Tonnage Assessment Number 2, Section A (East) Terminal Agreement.

Parties: Port of Houston Authority (Port''), Shippers Stevedoring Company (''SSC'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes SSC to perform freight handling services at the Port's Wharves and Transit Sheds Number 2, Section A (East). The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200947.

Title: Port of Houston Authority/ Chaparral Stevedoring Company of Texas, Inc. Guarantee Assignment Number 32 Terminal Agreement.

Parties: Port of Houston Authority (Port''), Chaparral Stevedoring Co. of Texas, Inc. (''CSCT'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes CSCT to perform freight handling services at the Port's Wharves and Transit Sheds Number 32. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200948.

Title: Port of Houston Authority/Ceres Gulf Incorporated Guarantee Assignment Number 19 and 20 Terminal Agreement.

Parties: Port of Houston Authority (''Port''), Ceres Gulf Incorporated (''Ceres'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes Ceres to perform freight handling services at the Port's Wharves and Transit Sheds Number 19 and 20. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200949.

Title: Port of Houston Authority/Ryan Walsh Incorporated Guarantee Assignment Number 24 Terminal Agreement.

Parties: Port of Houston Authority (''Port''), Ryan Walsh Incorporated (''Ryan Walsh'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes Ryan Walsh to perform freight handling services at the Port's Wharves and Transit Sheds Number 24. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200950.

Title: Port of Houston Authority/C.T. Stevedoring, Inc. d/b/a Port-Copper/T. Smith Stevedoring Company Guarantee Assignment Numbers 8, 9, 16, 17 and 18 Terminal Agreement.

Parties: Port of Houston Authority (''Port''), Port-Cooper/T. Smith Stevedoring Company (''PCTSSC'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes PCTSSC to perform freight handling services at the Port's Wharves and Transit Sheds Number 8, 9, 16, 17, and 18. The term of the Agreement expires December 31, 1997.

Agreement No.: 224–200951.

Title: Port of Houston Authority/ Fairway Terminal Corporation Tonnage Assessment Assignment Number 1, Section B (West to Pole No. 7) Terminal Agreement.

Parties: Port of Houston Authority (''Port''), Fairway Terminal Corporation (''Fairway'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement authorizes Fairway to perform freight handling services at the Port's Wharves and Transit Sheds Number 1, Section B (West) to Pole No. 7. The term of the Agreement expires December 31, 1997.

Dated: June 28, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–16492 Filed 7–5–95; 8:45 am]

BILLING CODE 6730–01–M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200940.

Title: Broward County/Tecmarine Lines, Inc. Terminal Agreement.

Parties: Broward County (''Port''), Tecmarine Lines, Inc. (''Tecmarine'').

Synopsis: The proposed Agreement authorizes Tecmarine to perform stevedore services at the Port's Building 28.

Agreement No.: 224–200941.

Title: Port of San Francisco/Mercedes Benz, North America, Inc. Terminal Agreement.

Parties: Port of San Francisco (''Port''), Mercedes Benz, North America, Inc. (''Mercedes'').

Synopsis: The proposed Agreement authorizes Mercedes to pay reduced wharfage rates in consideration for establishing San Francisco as its non-exclusive North California port of call.

Dated: June 28, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–16491 Filed 7–5–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citizens Bancshares Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Citizens Bancshares Corporation, Olanta, South Carolina; to engage *de novo* through its subsidiary, E Z Loan Company, Inc., Lake City, South Carolina, in operating as a consumer finance company and making consumer loans, pursuant to § 225.25(b)(1)(i) of the Board's Regulation Y; to act as agent in the sale of credit insurance directly related to an extension of credit and limited to ensuring the repayment of the outstanding balance on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–16540 Filed 7–5–95; 8:45 am]

BILLING CODE 6210–01–F

Totalbank Corporation of Florida; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-14891) published on page 32013 of the issue for Monday, June 19, 1995, regarding the application by Totalbank Corporation of Florida, Miami, Florida, to acquire 100 percent of the voting shares of Florida International Bank, Perrine, Florida. That notice incorrectly stated that comments regarding the application by Totalbank Corporation of Florida must be received not later than July 13, 1995. The notice should have indicated that the comment period for this application closes on July 10, 1995. Accordingly, interested persons must submit comments to the Federal Reserve Bank of Atlanta regarding this application by July 10, 1995.

Board of Governors of the Federal Reserve System, June 29, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–16541 Filed 7–6–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Notice of Availability of Draft Environmental Impact Statement (DEIS) and Public Meeting for the San Diego U.S. Courthouse, City of San Diego, CA

The U.S. General Services Administration (GSA) hereby gives notice that a DEIS for the above referenced project has been prepared and filed with the U.S. Environmental Protection Agency (EPA). The proposed action includes the construction of an approximately 471,050 gross square foot building in the Centre City area of San Diego, CA. The DEIS prepared for the proposed action examines five project alternatives including two building scenarios on the preferred site, construction on an alternative site, expansion of the courts into lease space, and no action.

The DEIS is on file and may be obtained from the U.S. GSA, Attn: Ms. Rosanne Nieto, Asset Manager (9PT), 525 Market Street, 35th Floor, San Francisco, CA 94105-2799, phone # (415) 744-8111. A limited number of copies of the DEIS are available to fill single copy requests. Loan copies of the DEIS are available at the San Diego Central Library, 820 E Street, and at the GSA Field Office, 880 Front Street, San Diego, CA.

A public meeting is scheduled to provide the public with an opportunity

to submit oral and written comments on the DEIS. The meeting will be held on July 19, 1995 from 4:00 pm to 8:00 at 880 Front Street, Room 6266, San Diego, CA. In addition, written comments on the DEIS can be submitted to the GSA San Francisco address above and will be accepted until the closing of the public review period on August 20, 1995.

Dated: June 28, 1995.

Rosanne Nieto,

Asset Manager.

[FR Doc. 95–16605 Filed 7–5–95; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: Appeal procedures for Head Start Grantees and current or former Delegate Agencies.

OMB No.: 0980–0242.

Description: Information collection connected to procedures for appeals by grantees from termination and denial of refunding actions. Also includes procedures for appeals by current or prospective delegate agencies.

Respondents: State governments.

Annual Number of Respondents: 10.

Number of responses per respondent: 1.

Total annual responses: 10.

Hours per response: 20.

Total Annual Burden Hours: 200.

Additional Information: Copies of the proposed collection may be obtained from Bob Sargis of the Division of Information Resource Management, ACF, by calling (202) 690–7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 29, 1995

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–16586 Filed 7–5–95; 8:45 am]

BILLING CODE 4184–01–M

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: 45 CFR Part 1305—Eligibility, Recruitment, Selection, Enrollment and Attendance in Head Start.

OMB No.: 0970–0124.

Description: Data Collection relates to requirements in 45 CFR part 1305 governing eligibility requirements and selection and enrollment of children and their families in Head Start. Specific categories of information will be collected and analyzed as part of Head Start Grantee's community needs assessment once every three years and used to make key program service decisions for each grantee.

Respondents: State governments.

Annual Number of Respondents: 468 sites.

Number of Responses per respondent: 1.

Total annual responses: 468 sites.

Hours per response: 40.

Total Annual Burden Hours: 18,720.

Additional Information: Copies of the proposed collection may be obtained from Bob Sargis of the Division of Information Resource Management, ACF, by calling (202) 690–7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 29, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–16587 Filed 7–5–95; 8:45 am]

BILLING CODE 4184–01–M

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: Streamlined State Plan for AFDC.

OMB No.: 0970–0016.

Description: This document constitutes the agreement by States to operate AFDC in accord with Federal laws and regulations. It is used as the basis for determining Federal financial participation in State programs and as a tool for policy development.

Respondents: State governments.

Title	No. of respondents	No. of responses per respondent	Average burden per response	Burden
Plan for AFDC	55	4	15	3,300

Estimated Total Annual Burden: 3,300.

Additional Information: Copies of the proposed collection may be obtained from Bob Sargis of the Division of Information Resource Management, ACF, by calling (202) 690–7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 29, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–16588 Filed 7–5–95; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Under OMB Review

Title: Office of Community Services Program Announcements.

OMB No.: 0970–0062.

Description: OCS needs this information collection to evaluate and select grant applicants. Respondents are private nonprofit community based organizations.

Respondents: State governments.

Title	No. of respondents	No. of responses per respondent	Average burden per response	Burden
DGP	200	1	35	7,000
CF&NGP	250	1	10	2,500
LIHEAP	25	1	24	1,200
DPP	70	1	40	2,800
JOLIP	50	1	40	2,000
T&TA&CPP	25	1	24	680
FVP&SGP	100	1	40	4,000

Estimated Total Annual Burden: 20,180.

Additional Information: Copies of the proposed collection may be obtained from Bob Sargis of the Division of Information Resource Management, ACF, by calling (202) 690–7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 29, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–16589 Filed 7–5–95; 8:45 am]

BILLING CODE 4184–01–M

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging, HHS. The Administration on Aging (AoA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511):

Title of Information Collection: State Annual Long-Term, Care Ombudsman Report.

Type of Request: Extension and Revision.

Use: To revise an existing information collection for States to use in reporting on activities of their Long-Term Care Ombudsman Programs as required under Section 712 of the Older Americans Act, as amended.

Frequency: Annually.

Respondents: State Agencies on Aging.

Estimated Number of Responses: 52.

Total Estimated Burden Hours: 9,880.

Additional Information or Comments: The Administration on Aging is submitting to the Office of Management and Budget for approval a new reporting system for the State annual Long-Term Care Ombudsman reports, pursuant to requirements in Section 712(b) and (h) of the Older Americans Act. The new reporting system would become effective in fiscal year 1996. The request also includes an interim report form for fiscal year 1995. The Interim form requests some, but not all, of the information previously collected on State ombudsman programs and the following elements from the new reporting system:

- Ombudsman work on major issues;
- Types of sponsors of local ombudsman entities;
- Numbers of long term care facilities and beds;
- Statewide ombudsman coverage; and,
- Numbers of staff and volunteers serving the statewide program.

Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: June 28, 1995.

William F. Benson,

Deputy Assistant Secretary for Aging.

[FR Doc. 95–16484 Filed 7–5–95; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Administration on Aging

[Program Announcement No. AOA–95–2]

Office of the Assistant Secretary for Planning and Evaluation; Fiscal Year 1995 Program Announcement; Availability of Funds and Request for Applications

AGENCY: Administration on Aging and the Office of the Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Announcement of availability of funds and request for applications to establish and conduct a National Institute on Consumer-Directed Home and Community-Based Care Systems.

SUMMARY: The Administration on Aging (AoA) and the Office of the Assistant Secretary for Planning and Evaluation (ASPE) announce that they will hold a competition for a Cooperative Agreement to establish and conduct a National Institute on Consumer-Directed Home and Community-Based Care Systems.

The deadline date for the submission of applications is August 25, 1995. Eligible applicants for the National Institute include any public or nonprofit agency, organization, or institution. However, to merit serious consideration, an applicant must demonstrate that it has (1) extensive knowledge and experience in the area of home and community based services (2) a record of relevant achievement in this area, (3)

the requisite organizational capability to carry out the activities of the Institute on a nationwide scale.

Application kits are available by phoning 202/619–0441 or by writing to: Department of Health and Human Services, Administration on Aging, Office of Program Development, 330 Independence Avenue, SW., Room 4278, Washington, DC 20201.

Fernando M. Torres-Gil,

Assistant Secretary for Aging.

David T. Ellwood,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 95–16580 Filed 7–5–95; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control and Prevention

[CDC–574]

Announcement of Cooperative Agreement with the American Public Health Association

Summary

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement with the American Public Health Association (APHA) entitled ''Preparing the Public Health Workforce for the Changing Public Health Environment'' to support the development and implementation of methodologies to prepare the public health workforce to deal effectively with changes in the public health practice environment.

It is anticipated that approximately $285,000 will be available in FY 1995 to fund this agreement. It is expected that the award will begin on or about September 30, 1995, and will be made for a 12-month budget period within a project period of up to 5 years. Continuation awards within the project period will be made on the basis of performance and the availability of funds. However, it is anticipated that future awards may be substantially higher if APHA develops proposals for collaborative projects with specific programs at CDC.

The purposes of this cooperative agreement are: (1) To develop and implement methodologies to improve the public health community's access to relevant and timely information about changes in the public health practice environment at the national, State, and local levels and/or (2) to design and conduct (or facilitate the design and conduct of) projects to demonstrate effective public health approaches to changes in the public health practice environment.

The CDC will provide the following assistance:

1. Collaborate with APHA to identify sources of information about changes in health policy and public health practice.

2. Collaborate with APHA to identify settings in which substantive changes in public health policy have occurred and provide input into the design of studies to assess the impact of those changes on public health practice.

3. Assist APHA in identifying individuals to participate in sessions to develop consensus regarding which approaches are most effective in protecting and improving the health of the public.

4. Provide advice and consultation to APHA regarding effective methodologies for disseminating information to those in the public health community.

5. Provide technical assistance to APHA, if necessary, in developing and disseminating information to the public health community, including making available CDC's live satellite video and/or audio conference services.

6. Collaborate with APHA to explore more efficient ways to operate the Peer Assistance Network.

7. Facilitate discussions between APHA and CDC program personnel regarding the development of Center/Institute/Offices (CIO)-specific activities to help accomplish the objectives of the cooperative agreement.

CDC is committed to achieving the health promotion and disease prevention objectives in *Healthy People 2000: National Health Promotion and Disease Prevention Objectives.* These objectives can be achieved only if those responsible for developing State and local health policy and those responsible for public health at the State and local level are aware of the impact that different health policy decisions and responses to them are having on the practice of public health so that they can implement approaches which appear most effective in protecting and improving the health of the public. This announcement is related to the priority area of Education and Community-based. (To order a copy of *Healthy People 2000,* refer to the Section **Where to Obtain Additional Information.**)

Authority

This program is authorized under section 317(k)(2) of the Public Health Service Act, 42 U.S.C. 247b(k)(2) as amended. Program regulations are set forth in 42 CFR part 52.

Smoke-Free Workplace

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

Eligible Applicant

Assistance will be provided only to the American Public Health Association (APHA). No other applications are solicited. APHA is uniquely qualified to be the recipient organization for the following reasons:

1. APHA is the nation's largest public health professional membership organization and is the only national public health membership organization that has members from all segments of the public health practice and academic communities, as well as from the public and private medical care community. Its membership of over 54,000 includes national, State, and local public health experts and leaders; public health researchers; public health practitioners and administrators; teachers and students from schools of medicine and public health; preventive medicine residents; State and local board of health members; hospital administrators; pharmaceutical industry executives; and many others.

2. The diversity of its membership, its ability to reach beyond the bounds of traditional public health, the quality of work performed by its members and staff, and the high esteem in which it is held within the profession place APHA in a unique position to assure that all relevant perspectives are taken into consideration in accomplishing the purposes of this agreement—not just the perspectives of official public health agencies or the private medical community, for example.

3. APHA has broad and objective knowledge of the diverse range of public health issues and programs and, because it doesn't represent just one group of public health individuals or organizations, APHA will be able to maintain an unbiased approach to the study of health policy changes and the impact of those changes on the practice of public health.

4. APHA has a nationwide network of 52 affiliates, the vast majority of which are State-based. Those affiliates will be able to provide information to APHA about health policy changes in their States and to coordinate specific

cooperative agreement project activities in their States.

5. APHA has 24 Sections and 6 Special Interest Groups that represent all disciplines in public health, including Health Administration, Community Health Planning and Policy Development, Epidemiology, Environmental Health, Statistics, Public Health Nursing, Health Law, and Alternative Health Professions, ensuring the availability of the wide array of expertise that will be necessary to accomplish the purposes of the cooperative agreement.

6. APHA has an acknowledged role in providing leadership in the development of national public health policies. This leadership position will help assure the accomplishment of the cooperative agreement's objectives.

7. APHA has the ability to quickly and economically convene working sessions and other meetings in Washington, DC, due to the fact that it has on-site meeting facilities at its DC offices and has meeting planners on staff.

8. APHA has the ability to maintain contact with and disseminate information to the public health community, in a timely manner, through *The Nation's Health,* its monthly newspaper, and the *American Journal of Public Health,* its monthly journal. In addition, APHA has the ability to disseminate information to over 13,000 members who attend the APHA Annual Meeting and Exhibit each fall.

Executive Order 12372 Review

The application is not subject to review as governed by Executive Order 12372, entitled ''Intergovernmental Review of Federal Programs.''

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this program, please refer to Announcement Number 574 and contact David Elswick, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 305, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6521.

A copy of *Healthy People 2000: National Health Promotion and Disease Prevention Objectives* (Full Report, Stock No. 017–001–00474–0) or *Healthy People 2000: National Health Promotion and Disease Prevention Objectives* (Summary Report, Stock No. 017–001–00473–1) referenced in the **Summary** may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 29, 1995.

Deborah L. Jones,

Deputy Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16517 Filed 7–5–95; 8:45 am]

BILLING CODE 4163–18–P

[Announcement Number 570]

Cooperative Agreement Program to Assess the Impact of Emerging Infectious Diseases on Health Outcomes of Children and Their Families Related to Out-of-Home Child Care

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program for competitive applications to assess the impact of out-of-home child care on health outcomes related to infectious diseases among children and their families and to evaluate the impact of interventions designed to improve those health outcomes. For purposes of this cooperative agreement program, out-of-home child care is defined as care provided to children outside the home for at least ten hours per week in child care centers, family child care homes, family group homes, or similar settings. The primary population of interest is children five years of age and younger and their families; however, children up to 13 years of age (and their families) attending ''after-school''-type care programs may be included in the study population. Because of the difficulty in obtaining high quality data on illness and health status from child care providers and the need to compare children who receive child care in different settings, the focus for recruitment and data collection should be through providers of health care services (e.g., health maintenance organizations, preferred provider organizations, physician-hospital organizations, other integrated and/or managed care-type health provider networks or organizations).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality and to improve the quality of life. This announcement is related primarily to the priority area of Immunization and Infectious Diseases. (For ordering a copy of ''Healthy People 2000,'' see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 241(a) and 247b(k)(2)). Applicable program regulations are found in 42 CFR part 51b, Project Grants for Preventive Health Services.

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke- free workplace and to 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.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $300,000 is available in FY 1995 to fund two to three projects. It is expected that awards will range from $75,000 to $150,000 and will begin on or about September 30, 1995, for a 12-month budget period within a project period of up to three years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

There are no matching or cost participation requirements; however, the applicant's anticipated contribution to the overall program costs, if any, should be provided on the application.

Funds awarded under this cooperative agreement should not be used to supplant existing State government expenditures in this area.

Purpose

The purpose of this cooperative agreement program is to provide assistance to quantitatively assess: Infectious disease morbidity (both in the child and the child's family) associated with out-of-home child care; associations between morbidity (e.g., days of illness, days of restricted activity, physician's visits, etc.) and the type of health care (i.e., health maintenance organizations, preferred provider organizations, fee-for-service, physician-hospital organizations, other integrated and/or managed care-type health provider networks or organizations) utilized by children and other family members. Health care provider-focused interventions that will have a measurable impact on morbidity among children and their families should also be assessed.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A., below, and CDC will be responsible for activities listed under B., below:

A. Recipient Activities

1. Assess the health outcomes and health status of a population using specific health indicators (e.g., number of days of a specific illness, days of restricted activity, colonization or infection with antibiotic-resistant bacteria, other measures of health or wellness) and health care process measures (e.g., utilization and cost of health services, number of antibiotic prescriptions, immunization rate). Also study how the types and forms of health care services to which the study population has access may be mediating factors in both process and outcome measures.

2. Establish and monitor achievement of a series of measurable sub-objectives (e.g., recruitment of adequate sample size; development of data collection instruments; identification of adequate systems for data processing and analysis; establishment of evaluation mechanisms, including validation of data, etc.) so that progress toward accomplishing the defined objectives can be clearly assessed.

3. Enroll study subjects representing populations that appropriately address study objectives. For example, rates of illness can be compared among families with children in a variety of child care settings (including family child care homes, family group homes, and child care centers), families with children not in out-of-home child care (as one comparison group), and families/persons without children (as a second comparison group). Types of health care these populations receive that could be considered in comparing practices and in evaluating access include managed care (traditional HMO, point-of-service HMO, physician hospital organization), fee-for-service care, private insurance and government-supported health care (e.g., Medicaid). Study populations should include a reasonable demographic diversity by racial/ethnic composition, socio-economic status, etc.

4. Monitor and adhere to project timelines to ensure completion of data collection and analysis and reporting to the scientific community within a three-year project period.

5. Initiate and complete one or more of the following:

a. Surveillance for infectious disease morbidity, including information on antimicrobial drug use (e.g., pharmaceutical used, duration, dosage, indication and prescribing physician). When appropriate, assessment should include identification of risk factors for illness, collection of nasopharyngeal swabs and stool specimens for identification of respiratory and enteric pathogens, and evaluation of direct and indirect costs of illness among study subjects.

b. Definition of the impact of common respiratory illnesses, respiratory complications including otitis media and related antibiotic use on morbidity among children, family members and child care providers. When appropriate, studies should include assessment of the effectiveness of influenza vaccination in reducing influenza-related morbidity, and the costs and use of antibiotics among children in child care, their family members, and child care providers.

c. Assessment of the effectiveness of health education and its impact on antimicrobial use and antimicrobial resistance (e.g., education of parents regarding appropriate use of antimicrobial drugs in respiratory tract infections to decrease patient demand, handwashing for the prevention of enteric and respiratory infections).

B. CDC Activities

1. Provide technical assistance in the design and conduct of the projects.

2. Provide assistance in the evaluation and dissemination of the results of the projects.

Evaluation Criteria

Applications will be reviewed and evaluated based on the following weighted criteria:

A. The applicant's understanding of the purpose of the proposed activity and inclusion of appropriate background information demonstrating knowledge and understanding of the subject and rationale for the proposed objectives. (10 points)

B. The extent to which applicant's description of the methods to be used to assess health outcomes/health status of the population under study (including accurately defining and measuring health outcomes, characterizing exposures to risk factors, and assessing the impact of intervention strategies) is detailed and adequate to accomplish project objectives. The extent to which the applicant's description of the methods to be used to measure health care process activities such as site of service delivery, type of provider, financial mechanism (e.g., reimbursement, capitation), services provided, and the impact of these process measures on the outcomes under study is detailed and adequate to accomplish project objectives. (35 points)

C. The extent to which background information and other data demonstrate that the applicant has the appropriate organizational structure, administrative support, and ability to access appropriate target populations or study objects and that these target populations and study objects will ensure an adequate sample size and representativeness of the types of health care settings, of families with children in various types of child care settings, and reasonable demographic diversity. (20 points)

D. The extent to which applicant demonstrates capacity to achieve collaboration and participation of key groups, organizations, and agencies necessary for successful implementation of these projects. (10 points)

E. The degree to which the proposed objectives are specific, achievable, measurable and time-phased. (10 points)

F. The extent to which the applicant documents that professional personnel involved in the project are qualified and have experience and achievements in related research as evidenced by curriculum vitae, publications, etc., and to which the projected level of effort by all project personnel is adequate to accomplish the proposed activities. (10 points)

G. The degree to which appropriate staff are available, either through direct participation or through assured

consultative services, to provide expertise in health services research, biostatistics, and health economics. (5 points)

H. The extent to which the proposed budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds. (Not scored)

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If SPOCs or tribal governments have any process recommendations on applications submitted to CDC, they should forward them to Clara M. Jenkins, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E18, Room 314, Atlanta, GA 30305. The due date for State process recommendations is 30 days after the application deadline date for new and competing continuation awards. (A waiver for the 60 day requirement has been requested). The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve collection of information from ten or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any Native American community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

In order to assist CDC in planning for and executing the evaluation of applications submitted under this announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so at their earliest convenience prior to the application due date. Notification should include name and address of institution and name and telephone number of contact person. Notification can be provided by telephone, facsimile, or postal mail to Steve Solomon, M.D., Special Studies Activity, Hospital Infections Program, National Center for Infectious Diseases, 1600 Clifton Road, NE., Mailstop A07, Atlanta, GA 30333, telephone (404) 639–6475, facsimile (404) 639–6483. The original and two copies of the application Form PHS–5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Clara M. Jenkins, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E18, Atlanta, GA 30305, on or before August 15, 1995.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or,

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above, are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 570. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Gordon R. Clapp, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6508. Programmatic technical assistance may be obtained from Steve Solomon, M.D., Special Studies Activity, Hospital Infections Program, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop A07, Atlanta, GA 30333, telephone (404) 639–6475.

Please refer to Announcement Number 570 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) referenced in the **Introduction** through Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 29, 1995.

Deborah L. Jones,

Deputy Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16518 Filed 7–5–95; 8:45 am]

BILLING CODE 4163–18–P

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Prevention Centers Program/National Center for Chronic Disease Prevention and Health Promotion—General Special Interest Projects, Panel Number 1, Program Announcements 328, 432, 461: Teleconference Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—Special Interest Projects, Panel Number 1, Program Announcements 328, 432, 461.

Time and Dates: 1 p.m.-5 p.m. August 2, 1995.

Place: National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, Georgia 30345.

Status: Closed.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcements 328, 432, and 461, entitled Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—General Special Interest Projects, Panel Number 1.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Contact Person for More Information: Michael Kerr, Deputy Director, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, m/s K10, Atlanta, Georgia 30345. Telephone 404/488–5000.

Dated: June 28, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16511 Filed 7–5–95; 8:45 am]

BILLING CODE 4163–18–M

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Prevention Centers Program/National Center for Chronic Disease Prevention and Health Promotion—Womens' Health Issues, Program Announcements 328, 432, and 461: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—Womens' Health Issues, Program Announcements 328, 432, 461.

Time and Dates: 8:30 a.m.–5 p.m. August 1, 1995.

Place: Sheraton Colony Hotel, 188 14th St. Atlanta, Georgia, 30361.

Status: Closed.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcements 328, 432, and 461, entitled Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—Womens' Health Issues.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Contact Person for More Information: David McQueen, Sc.D., Acting Director, Office of Surveillance and Analysis, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, Georgia 30345. Telephone 404/488–5269.

Dated: June 28, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16512 Filed 7–5–95; 8:45 am]

BILLING CODE 4163–18–M

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Prevention Centers Program/National Center for Chronic Disease Prevention and Health Promotion—General Special Interest Projects, Panel Number 3, Program Announcements 328, 432, 461: Teleconference Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—Special Interest Projects, Panel Number 3, Program Announcements 328, 432, 461.

Time and Dates: 1 p.m.–5 p.m., August 4, 1995.

Place: National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., Atlanta, Georgia 30345.

Status: Closed.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcements 328, 432, and 461, entitled Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—General Special Interest Projects, Panel Number 3.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Contact Person for More Information: Gary Hogelin, M.P.A., Assistant Director for Policy Planning, Office of Surveillance and Analysis, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., m/s K30, Atlanta, Georgia 30345. Telephone 404/488–5269.

Dated: June 28, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16513 Filed 7–6–95; 8:45 am]

BILLING CODE 4163–18–M

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Prevention Centers Program/National Center for Chronic Disease Prevention and Health Promotion—General Special Interest Projects, Panel Number 2, Program Announcements 328, 432, 461: Teleconference Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—Special Interest Projects, Panel Number 2, Program Announcements 328, 432, 461.

Time and Dates: 1 p.m.-5 p.m. August 3, 1995.

Place: National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, Georgia 30345.

Status: Closed.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcements 328, 432, and 461, entitled Cooperative Agreements for Prevention Centers/National Center for Chronic Disease Prevention and Health Promotion—General Special Interest Projects, Panel Number 2.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Contact Person for More Information: James E. Barrow, Deputy Director, Office of Surveillance and Analysis, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, m/s K30, Atlanta, Georgia 30345. Telephone 404/488–5269.

Dated: June 28, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16514 Filed 7–5–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95M–0179]

Summit Technology, Inc.; Premarket Approval of Excimed® UV200LA and SVS Apex (Formerly the OmniMed) Excimer Laser Systems

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Summit Technology, Inc., Waltham, MA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Excimed® UV200LA and the SVS Apex Excimer Laser Systems. After addressing the concerns of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter on March 10, 1995, of the approval of the application.

DATES: Petitions for administrative review by August 7, 1995.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Debra Y. Lewis, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2018.

SUPPLEMENTARY INFORMATION: On February 20, 1992, Summit Technology, Inc., Waltham, MA 02154, submitted to CDRH an application for premarket approval of the Excimed® UV200LA and the SVS Apex Excimer Laser Systems. The excimer laser in the two systems delivers pulses at 193 nanometers wavelength. The excimer laser is indicated for use in the following Phototherapeutic Keratectomy procedures which treat superficial pathology located in the anterior 100 microns of the cornea, where the proposed treatment area is at least 400 microns in thickness, and where other less invasive treatments have failed or are not possible, such as contact lens intolerance. This indication is limited to patients with decreased visual acuity or symptoms of pain and discomfort of sufficient severity to cause disability for the patients with any of the following conditions: (1) Superficial corneal dystrophies (granular, lattice, and Reis-Buckler's); (2) epithelial basement membrane dystrophy; (3) irregular corneal surfaces (secondary to Salzmann's degeneration, keratoconus nodules and other irregular surfaces); and (4) corneal scars and opacities (post-traumatic, post-surgical, post-infectious and secondary to pathology).

On March 21, 1994, the Ophthalmic Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended conditional approval of the application. The concerns of the panel have been adequately addressed by Summit Technology, Inc., in subsequent submissions to FDA. On March 10, 1995, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 7, 1995, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: June 26, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–16624 Filed 7–5–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Proposed Data Collections Available for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects: 1. Evaluation of the Effectiveness and Impact of Community Health Centers—New—A mail survey will be conducted of fifty community health centers (CHCs) to collect information on characteristics of health centers (e.g., patients, services, staffing, financing and participation in managed care) during 1992. The survey is one component of an evaluation of community health centers that examines utilization and expenditures among Medicaid CHC users and non-users, using a sample of 50 health centers in 10 states. The survey will collect data that supplement information already available from health center annual reports, reviews and grant applications. Together with the secondary data, the survey results provide the basis for characterizing attributes of the CHC delivery system and examining whether features of the CHC delivery model assist in explaining observed differentials in use and expenditures among CHC users. The survey will be mailed to CHC Executive Directors, who are expected to delegate portions of the questionnaire to staff for completion. Burden estimates are as follows:

Number of respondents	Number of responses per respondent	Average burden per response (hours)
50 CHCs	1	10–14 hours*

*Burden estimate is based on previous experience with similar surveys of CHCs. Estimates will be refined based on pilot test.

2. Data Collection and Reporting Requirements for Healthy Start—Extension and Revision—Patient records and aggregate data are being collected from Healthy Start grantees in order to evaluate the overall effectiveness of the initiative and the value of specific interventions for varying groups of target women. A number of minor revisions have been proposed based on consultations with grantees regarding availability and utility of the data. Burden estimates are as follows:

Number of respondents	Responses per respondent	Average burden per response (hours)
Patient Data	1	200
Midyear Reports	1	5
Aggregate Reports	1	40

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 30, 1995.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 95–16523 Filed 7–5–95; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3756; FR–3841–N–02]

NOFA for Public and Indian Housing Youth Development Initiative Under the Family Investment Centers Program: Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Amendment of NOFA.

SUMMARY: This Notice amends a NOFA that was published in the **Federal Register** on May 30, 1995, to announce a set-aside HOPE in Youth Demonstration Program involving two housing agencies in Los Angeles, California. As a result, the total remaining funds to be awarded under the criteria set out in the NOFA is $9 million. In addition, this amendment corrects the address of HUD's Philadelphia, Pennsylvania, field office, as listed in the NOFA.

FOR FURTHER INFORMATION CONTACT: Bertha M. Jones, Office of Community Relations and Involvement (OCRI), Room 4112, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410; telephone numbers: (202) 708–4214; Hearing-or speech-impaired persons may use the Telecommunications Devises for the Deaf (TDD) by contacting the Federal Information Relay Services on 1–800–877–TDDY (1–800–877–8339) or 202–708–9300 (not a toll-free number) for information on the program.

SUPPLEMENTARY INFORMATION: Accordingly, FR Doc. 95–13094, the NOFA for Youth Development Initiative Under Public and Indian Housing Family Investment Centers, published at 60 FR 28304 (May 30, 1995), is amended as follows:

1. On page 28304, in the first column, the first paragraph under the Summary, the NOFA is revised by adding a new sentence after the first sentence, to read as follows:

* * * Of the up to $10 million in funding for Fiscal Year 1995, $1 million has been set-aside for a HOPE in Youth Demonstration Program, leaving up to $9 million to be awarded under this NOFA.

* * * * *

2. On page 28304, in the second column, the first paragraph in Section I.B, Allocation Amounts, is revised by adding two sentences at the end of the paragraph, to read as follows:

* * * Of the up to $10 million in funding announced for Fiscal Year 1995, $1 million has been set-aside for a HOPE in Youth Demonstration Program, leaving up to $9 million to be awarded under this NOFA. A notice describing the HOPE in Youth Demonstration Program and soliciting public comments on the demonstration is expected to be published soon in the **Federal Register**.

* * * * *

3. On page 28315, in the first column, under the heading for the ''HUD—Mid-Atlantic Area—Pennsylvania, Washington, DC, Maryland, Delaware, Virginia, West Virginia'' in the Appendix the street address for the Public Housing Division of the Philadelphia, Pennsylvania HUD Field

Office is corrected to read: ''Wanamaker Building, 12th Floor, 100 Penn Square East, Philadelphia, PA 19107–3380''.

Dated: June 29, 1995.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–16490 Filed 7–5–95; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–931–5440–00–ZBAF; CACA 30814]

Ward Valley-Notice of Proposed Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to classify approximately 1,000 acres of land suitable for continued retention by BLM rather than State Indemnity Selection by the California State Lands Commission.

DATES: Comments and protests must be in written form, must be mailed or sent by August 7, 1995, and must be received by August 14, 1995.

ADDRESSES: Written comments should be sent to the California State Director, BLM (CA–931), 2800 Cottage Way, Room E–2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: BLM Public Information, California State Office, 916–979–2800.

SUPPLEMENTARY INFORMATION: The following proposed classification decision is being issued in accordance with the provisions of 43 U.S.C. 315 (f) and 43 CFR 2450. All persons who wish to protest or comment may present their views in writing to the address above by the dates listed above. No particular format is required, but protests should be clearly labeled protests. Upon receipt and review of the timely protests and comments, the final decision will be made by the Secretary.

Lands Suitable for Retention

The Bureau of Land Management (BLM) has examined the following described lands owned by the United States to determine if, pursuant to a petition submitted by the State Lands Commission (SLC), they should be classified initially for selection by the State of California under the State Indemnity Acts, 43 U.S.C. 851–52, or, in the alternative, for continued retention under multiple use management by the BLM:

San Bernardino Meridian

T. 9 N., R. 19 E.
Sec. 26, SW¼SW¼
Sec. 27, S½S½
Sec. 34
Sec. 35, W½W½
Consisting of 1,000 acres, more or less, situated in San Bernardino County, California.

The above-described lands lie in the Ward Valley, an area within the low desert portion of California's Mojave Desert, located approximately 24 miles west of the City of Needles, in San Bernardino County, California. The Department of Health Services (DHS) of the State of California has determined on the basis of site selection criteria developed by the DHS, pursuant to the California Radiation Control Law, California Health and Safety Code § 25811.5(c), that the above described lands (hereinafter the ''Ward Valley lands'') constitute the most suitable site on state or federally-owned public lands in the State of California for the location of a low level radioactive waste disposal facility. In 1993, the DHS issued a radioactive materials license for the operation of such a facility on the Ward Valley lands. At the same time, the DHS, acting on behalf of the State, entered into a lease agreement to lease the Ward Valley lands to the licensee. This lease agreement provides that it shall become effective if and when the State acquires title to the lands.

The Ward Valley lands may not be selected by the State of California pursuant to 43 U.S.C. 851–52 without first being appropriately classified and opened by the BLM for such selection. In addition to the effort of the SLC to acquire the Ward Valley lands through the state indemnity selection process, the DHS, acting on behalf of the State of California, has applied to the BLM for a direct sale of the lands to the State. The lands would be sold under the authority of sections 203, 208 and 209 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1713, 1718–1719. Thus, pending before the BLM at the present time are the initiatives of two separate agencies of the State, each seeking by different means to vest title to the Ward Valley lands in the State of California.

In relation to the Ward Valley lands, the DHS and the BLM jointly issued a final environmental impact report/statement (EIR/EIS) entitled ''State of California Indemnity Selection & Low-Level Radioactive Waste Facility.'' The preferred alternative in the EIR/EIS identified the Ward Valley lands as the site for a low level waste facility. A Final Supplemental Environmental Impact Statement (FSEIS) designating a direct sale as the proposed action, rather than an indemnity selection conveyance, also was issued after the BLM received the DHS application. The present use of the Ward Valley lands is discussed at pages 3.1–98 through 3.1–104 of the EIR/EIS. The affected environment is described at pages 3.1–1 through 3.1–139 of the EIR/EIS. The EIR/EIS discusses, among other matters, the relevant biological, cultural and paleontological resources; geology and seismicity; hydrology; climate and air quality; and visual features. The EIR/EIS, together with other studies and correspondence from interested parties, served as the information and technical data base for this classification decision.

The Ward Valley lands are included in the California Desert Conservation Area Plan of 1980, as amended. The Ward Valley lands are designated in the plan as Multiple Use Class M (moderate use) lands. Class M lands suitable for hazardous waste disposal may be transferred for this use at the discretion of the Secretary of the Interior. The Ward Valley lands are not within a grazing district and are withdrawn from the mining and agricultural entry laws. The General Plan of San Bernardino County designates the Ward Valley lands as being suitable for limited rural development. The SLC has not indicated what it intends to do with the Ward Valley lands if they are classified for state selection. Either retention or sale of the Ward Valley lands would be consistent with BLM planning, and, depending upon whether retention is permanent or temporary and the use that eventually will be made of the land, may be consistent with state programs or local planning.

In the past, the Governor of California has expressed his desire, consistent with the DHS application, for a direct sale of the Ward Valley lands to the State. A recently issued report prepared by the National Research Council (NRC) contains several recommendations relating to the use of the Ward Valley site as a low level radioactive waste disposal facility. Additional recommendations or requirements may result from the biological opinion on the impacts of transfer of the site on the threatened desert tortoise. Measures described in the NRC report or the consultation on the tortoise may be included in the title transfer document if the Ward Valley lands are conveyed by a direct sale pursuant to the FLPMA. However, as pointed out below, this would not be possible if the lands are selected and transferred by means of the state indemnity selection acts.

Indemnity selections fulfill a public purpose, namely, contributing toward

satisfaction of the obligation of the United States owed to California for school land grants. There are, however, many federally-owned public lands, other than the Ward Valley lands, that are available in California and that are suitable for this purpose, whereas, as documented in the DHS site selection process and the EIR/EIS, public lands in the State of California having the same geological and hydrological characteristics of the Ward Valley lands are extremely scarce or nonexistent. Accordingly, the value of the Ward Valley lands for use as a low level waste disposal site is very high and meets a unique public purpose.

Further, FLPMA sanctions direct sales to support important public policies and objectives and provides for such sales to be conditioned to insure proper land use and protection of the public interest. In contrast, the state indemnity selection acts do not contain provisions authorizing the imposition of terms or conditions that address the potential impacts of subsequent uses of the land and that are intended to assure their maximum future use as for example, in this case, a site for the disposal of low level waste. Additionally, a direct sale made pursuant to FLPMA avoids the need for an additional administrative transfer of the lands from the SLC to the DHS (if the former should be so inclined) to allow siting of the proposed waste facility.

In light of the foregoing, and after having weighed all the relevant factors, I conclude that the Ward Valley lands should remain in federal ownership under multiple use management, as provided in the California Desert Conservation Plan of 1980, as amended. This will allow transfer of the Ward Valley lands for low level radioactive waste disposal purposes to the State of California by direct sale, the method of transfer the State Governor prefers, and will provide the opportunity to include appropriate conditions and safeguards regarding future use of the lands when and if they may be sold to the State. If the lands are not disposed of to the State, they will remain subject to BLM planning and management.

In accordance with the pending classification petition of the SLC and 43 C.F.R. Part 2400, the above described lands are classified for retention and the SLC indemnity selection application accompanying the petition is rejected.

Dated: June 29, 1995.

Edward L. Hastey,

State Director.

[FR Doc. 95–16519 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–40–P

U.S. Geological Survey

Calista Corp.

SUMMARY: Notice is hereby given that the U.S. Geological Survey is planning to enter into a Cooperative Research and Development Agreement (CRADA) with Calista Corporation, an Alaska Native regional corporation. The purpose of the CRADA is to conduct geologic mapping and geochemical sampling in the Holy Cross A–4 and A–5 quadrangles on both Calista land and adjoining Federal land. Any other organizations interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the U.S. Geological Survey.

DATE: This notice is effective July 6, 1995.

ADDRESS: Information on the proposed CRADA is available to the public upon request at the following location: U.S. Geological Survey, Branch of Alaskan Geology, 4200 University Drive, Anchorage, Alaska 99508–4667.

FOR FURTHER INFORMATION CONTACT: Marti L. Miller of the U.S. Geological Survey, Branch of Alaskan Geology, at the address given above; telephone 907/786–7437; fax 907/786–7401; email mmiller@tardaddy.wr.usgs.gov.

P. Patrick Leahy,

Chief Geologist.

[FR Doc. 95–16603 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–31–M

Geological Survey

Federal Geographic Data Committee (FGDC); Public Review of Wetlands Classification System

ACTION: Notice; Request for comments.

SUMMARY: The FGDC is sponsoring a public review of an existing wetlands classification system, ''Classification of Wetlands and Deepwater Habitats of the United States,'' by Cowardin et al., USFWS, FWS/OBS–79/31, to be considered for adoption as an FGDC standard. If adopted, the standard must be followed by all Federal agencies for data collected directly or indirectly (through grants, partnerships, or contracts).

In its assigned leadership role for developing the National Spatial Data Infrastructure (NSDI), the FGDC recognizes that the standards also must meet the needs and recognize the views of State and local governments, academia, industry, and the public. The purpose of this notice is to solicit such views. The FGDC invites the community to review, test, and evaluate the proposed classification system. Comments are encouraged about the content, completeness, and usability of the proposed standard.

The FGDC anticipates that the proposed wetlands standard, after updating or revision, will be adopted as a Federal Geographic Data Committee standard. The standard may be forwarded to other standards organizations for adoption if interest warrants such actions.

DATES: Comments must be received on or before October 15, 1995.

CONTACT AND ADDRESSES: Requests for written copies of the classification system being proposed as a standard, and reviewer comments concerning this standard, should be sent by mail to Wetlands Standards Review, FGDC Secretariat (attn: Jennifer Fox), U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 22092; telephone 703–648–5514; facsimile 703–648–5755; or Internet ''gdc@usgs.gov''. The proposed standard may also be purchased from the Government Printing Office/Superintendent of Documents at 202–512–1800, Document No. 024–010–00665–0, or the National Technical Information Service (NTIS) at 703–487–4650; it is also available for viewing on the Internet at the National Wetlands Inventory Home Page; the URL is: http://www.nwi.fws.gov

SUPPLEMENTARY INFORMATION: For classification purposes, wetlands are defined as: *lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and that have one or more of the following attributes: (1) At least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.*

Areas of deepwater, traditionally not considered wetlands, are included in this classification system as Deepwater Habitats. Deepwater Habitats are defined as: *permanently flooded lands lying below the deepwater boundary of wetlands, including environments where surface water is permanent and often deep, with water, rather than air, the principal medium within which the dominant organisms live.*

The classification system presents a method for grouping ecologically similar wetlands. It is hierarchical, with wetlands differentiated as follows: system, subsystem, class, subclass, hydrologic modifiers, water chemistry modifiers, dominance type, special

modifiers (relating to human activities). This wetlands classification standard was developed by a team of wetland ecologists with the assistance of local, State, and Federal agencies as well as private organizations, academia, and individuals. It went through four major revisions and extensive field testing prior to its official adoption by the U.S. Fish and Wildlife Service in 1980. This document serves as the wetlands classification standard for all Federal agencies involved in portraying spatial data. It is also the classification system of choice for most State and county agencies currently using wetlands spatial data.

Specific implementation details for particular technologies or procedures (photointerpretation and cartographic design) are not addressed. Additional documents exist that provide an example of the implementation of the proposed wetlands classification standard, but are not a part of the standard. These documents are: (1) Photointerpretation Conventions (updated 1995), (2) Cartographic Conventions (updated 1994), and (3) Digitizing Conventions (updated 1994). These documents may be obtained on request through the FGDC Secretariat at the above address. Two additional documents providing increased detail to support the classification are the ''National List of Plant Species That Occur In Wetlands,'' USFWS, Biological Report 88(24) and ''Hydric Soils of the United States,'' Natural Resources Conservation Service, Misc. Publ. #1491. The plant list may be accessed through the National Wetlands Inventory Home Page (Ecology Section); the URL is: http://www.nwi.fws.gov

Dated: June 28, 1995.

Richard E. Witmer,

Associate Chief, National Mapping Division.

[FR Doc. 95–16600 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0067); Washington, D.C. 20503, telephone (202) 395–395–7340, with copies to John V. Mirabella; Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart E, Oil and Gas Well-Completion Operations.

OMB Approval Number: 1010–0067.

Abstract: Respondents submit this information to the Minerals Management Service's District Supervisors for analysis and evaluation to ensure that planned well-completion operations will protect personnel safety and natural resources. This evaluation is used to decide whether to approve, disapprove, or require modification to the proposed well-completion operations.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Annual Burden Hours: 840 hours.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Dated: June 9, 1995.

Elmer P. Danneberger,

Acting Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–16485 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Katmai National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102 (2)(c) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a Supplemental Environmental Impact Statement (SEIS) to the 1994 Draft Development Concept Plan and Environmental Impact Statement (DCP/EIS) for the Brooks River Area, Katmai National Park and Preserve, Alaska. It includes a new proposal, Alternative 5.

DATES: Comments on the SEIS should be received no later than August 14, 1995. Written responses to the SEIS should be submitted to the Superintendent, Katmai National Park and Preserve, Post Office Box 7, King Salmon, Alaska, 99613. No public meetings will be held.

Copies of the SEIS are available on request from: Planning Team Leader, National Park Service, Denver Service Center-TWE, Post Office Box 27287, Denver, Colorado 80225–0287, telephone (303) 969–2262.

SUPPLEMENTARY INFORMATION: This EIS is a supplement to the 1994 Draft Development Concept Plan and Environmental Impact Statement (DCP/EIS) for the Brooks River Area, Katmai National Park and Preserve, Alaska. It includes a new proposal, Alternative 5. As in the Draft DCP/EIS, the major issue to be addressed is to identify appropriate alternatives for visitor use and resource conservation in the operation and location of development in the Brooks River Area of Katmai National Park and Preserve.

The new proposed action, Alternative 5, consists of the following elements: a rustic lodge and dining facility and overnight accommodations for 60, in separate cabins with a central shower/washroom facility on the Beaver Pond Terrace. A 60-person campground with enclosed, bear-proof cooking shelters would be provided on the terrace. All overnight accommodations would be provided through a concession-run, private sector corporation. Staff facilities would be similar to the lodge structures, with a second central shower/washroom facility. A main visitor center for the park would be the Interagency Visitor Center located in the gateway community of King Salmon. A visitor orientation facility would be provided in the Brooks River Area for on-site interpretation and safety orientation. The new proposal would provide for boat and aircraft access to the Brooks River Area and would encourage planning for appropriate dispersed outdoor recreational activities throughout the Naknek drainage, as called for in the 1986 General Management Plan (GMP).

Dated: June 28, 1995.

Michael Soukup,

Associate Director, Natural Resource Stewardship and Science.

[FR Doc. 95–16482 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–70–P

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meeting Changes

Notice is hereby given in accordance with the Federal Advisory Committee Act that the following meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be changed from the previously announced dates and places to hear presentations on

issues related to management of the Golden Gate National Recreation Area and Point Reyes National Seashore. Meeting changes of the Advisory Commission are as follows:

The meeting previously scheduled for Wednesday, July 12 at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco is cancelled.

The meeting previously scheduled for Saturday, September 16 at Point Reyes Station, California is cancelled, and instead a September meeting of the Advisory Commission will be scheduled for Wednesday, September 20 in San Francisco.

The meeting previously scheduled for Wednesday, October 18 in San Francisco is cancelled, and instead an October meeting of the Advisory Commission will be scheduled for Saturday, October 21 at Point Reyes Station, California.

All meetings of the Advisory Commission will be held at 7:30 p.m. at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco or at 10:30 a.m. at the Dance Palace, corner of 5th and B Streets, Point Reyes Station, California, unless otherwise noticed. Information confirming the time and location of all Advisory Commission meetings can be received by calling the Office of the Staff Assistant at (415) 556–4484.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Ms. Naomi T. Gray
Dr. Howard Cogswell
Mr. Michael Alexander
Mr. Jerry Friedman
Ms. Lennie Roberts
Ms. Yvonne Lee
Ms. Sonia Bolaños
Mr. Trent Orr
Mr. Redmond Kernan
Ms. Jacqueline Young
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

Specific final agendas for these meetings will be made available to the public at least 15 days prior to each meeting and can be received by contacting the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 556–4484.

These meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. A transcript will be available three weeks after each meeting. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: June 29, 1995.

Brian O'Neill,

General Superintendent.

[FR Doc. 95–16533 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–70–P

Manzanar National Historic Site Advisory Commission Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Manzanar National Historic Site Advisory Commission will be held at 1:00 p.m. (PSDT) on Saturday, July 22, 1995, at the County of Inyo Administrative Center, Board of Supervisors' Chambers, 224 N. Edwards Street (U.S. Highway 395), Independence, California to hear presentations on issues related to the planning, development, and management of Manzanar National Historic Site.

The Advisory Commission was established by Public Law 102-248, to meet and consult with the Secretary of the Interior or his designee, with respect to the development, management, and interpretation of the site, including the preparation of a general management plan for the Manzanar National Historic Site.

Members of the Commission are as follows:

Ms. Sue Kunitomi Embrey, Chairperson
Mr. William Michael, Vice Chairperson
Mr. Keith Bright
Ms. Martha Davis
Mr. Ronald Izumita
Mr. Gann Matsuda
Mr. Vernon Miller
Mr. Rose Ochi
Mr. Mas Okui
Mr. Glenn Singley
Mr. Richard Stewart

The main agenda items at this meeting of the Commission will include the following:

(1) Status report on the development of Manzanar National Historic Site by Superintendent Ross R. Hopkins.

(2) Review of the draft park General Management Plan.

(3) General discussion of miscellaneous matters pertaining to future Commission activities and Manzanar National Historic Site development issues.

This meeting is open to the public. It will be recorded for documentation, and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Commission. A transcript will be available after August 31, 1995. For a copy of the minutes, contact the Superintendent, Manzanar National Historic Site, P.O. Box 426, Independence, California 93526.

Dated: June 25, 1995.

Ross R. Hopkins,

Superintendent, Manzanar National Historic Site.

[FR Doc. 95–16538 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–70–P

Notice of Completion of Inventory of Native American Human Remains within the Rainbow House Collection, Bandelier National Monument, Los Alamos County, NM

AGENCY: National Park Service, Interior

ACTION: Notice

Notice is hereby given under provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of the inventory of human remains within the Rainbow House collection (LA 217), a Federally curated collection at Bandelier National Monument, Los Alamos County, NM.

The detailed inventory and assessment of the Rainbow House collection has been made by National Park Service professional staff and consultation with representatives of the following Pueblo groups: Pueblo of Santa Clara; Pueblo of San Ildefonso; Pueblo of Tesuque; Pueblo of Cochiti; Pueblo of Santo Domingo; Pueblo of Jemez; Pueblo of Zuni; and the Hopi Tribe.

Between 1948 and 1955, Fredrick Worman of Adams State College, CO and Louis Caywood of the National Park Service, carried out legally authorized archeological excavations on Federal public lands, including the Rainbow House archeological site within Bandelier National Monument. At Rainbow House one hundred rooms were excavated, as well as a kiva and an associated plaza. A minimum of seven

fragmentary individuals were found at Rainbow House in the kiva floor level and in the plaza room blocks. The occupation date assigned to Rainbow House was between AD 1412—1453.

Artifactual evidence does not allow specific identification of a single culturally affiliated Indian tribe. However, examination of cultural materials (e.g., ceramics, stone tools, and other items) and oral history regarding traditional and religious practice indicate probable cultural affiliation between the human remains and various Pueblo Indian groups. The National Park Service has determined that these human remains are culturally affiliated with: Pueblo of Santa Clara; Pueblo of San Ildefonso; Pueblo of Tesuque; Pueblo of Cochiti; Pueblo of Santo Domingo; Pueblo of San Felipe; Pueblo of Jemez; Pueblo of Zuni; Pueblo of Isleta; Pueblo of Laguna; Pueblo of Acoma; Ysleta del Sur Pueblo; Pueblo of Santa Ana; Pueblo of Sandia; Pueblo of Zia; and the Hopi Tribe. Other Pueblo peoples may also be culturally affiliated with these human remains. No lineal descendants have been identified.

This notice has been sent to consultation representatives of the following Indian tribes: Pueblo of Santa Clara; Pueblo of San Ildefonso; Pueblo of Tesuque; Pueblo of Cochiti; Pueblo of Santo Domingo; Pueblo of Jemez; Pueblo of Zuni; and the Hopi Tribe. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these human remains should contact Superintendent Roy W. Weaver, Bandelier National Monument, HCR 1 Box 1 Suite 15, Los Alamos, NM, 85744, telephone: (505) 672–3861 fax (505) 672–9607, before August 4, 1995. Repatriation of these human remains may begin after that date if no additional claimants come forward.

Dated: June 29, 1995

Veletta Canouts,

Acting Departmental Consulting Archeologist and

Acting Chief, Archeological Assistance Division

[FR Doc. 95–16472 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–70–F

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Criteria for Review of Federal Mandates by the Advisory Commission on Intergovernmental Relations

ACTION: Notice of criteria for review of federal mandates.

SUMMARY: The Advisory Commission on Intergovernmental Relations (ACIR) is issuing criteria for investigating and reviewing existing federal mandates and formulating recommendations to modify, suspend, or terminate specific mandates on State, local, or tribal governments. These criteria were approved by the Commission on June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Philip M. Dearborn, Director, Government Finance Research, ACIR, 800 K Street, NW, Suite 450 South, Washington, DC 20575, phone (202) 653–5538, FAX (202) 653–5429.

SUPPLEMENTARY INFORMATION: The Advisory Commission on Intergovernmental Relations (42 U.S.C. 4271) is charged in Section 302 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) with investigating and reviewing the role of Federal mandates in intergovernmental relations [Sec. 302(a)(1)] and with making recommendations for improving the operation of mandates [Sec. 302(a)(3)]. The law defines ''Federal mandate'' very broadly for the purposes of the ACIR review as ''any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty on State, local, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.''

For purposes of reviewing the role of Federal mandates under Sec. 302(a)(1), ACIR will take into account the positive attributes of mandates and the rationale for their adoption, as well as the characteristics of mandates that present problems. For purposes of making the recommendations required under Section 302(a)(3), ACIR will select for review only Federal mandates that are generally recognized as creating significant concerns within the intergovernmental system. In accordance with Public Law 104–4, ACIR will give review priority to mandates that are subject to judicial proceedings in Federal courts.

Prior to making recommendations under Sec. 302(a)(3), the Commission is required to issue criteria. The following criteria will fulfill that requirement. They were approved by the Commission on June 28, 1995, following public comment on proposed criteria published in 60 FR 27324 on May 23, 1995.

The Commission will make the final decisions about which mandates it will review and what recommendations it will make. The Commission's decisions will be based on two types of criteria:

(1) Those that provide a basis for identifying mandates of significant concern; and

(2) Those that provide a basis for formulating recommendations to retain, modify, suspend, or terminate specific mandates that are concern.

These criteria are intended solely to help the Commission make its recommendation.

Criteria for Identifying Mandates of Significant Concern

In general, Federal mandates will be selected for intensive review if they have one or more of the following characteristics:

1. The Mandate Requires State, Local, or Tribal Governments to Expend Substantial Amounts of Their Own Resources in a Manner That Significantly Distorts Their Spending Priorities

This addresses mandates that require more than incidental amounts of spending.

It will not include all Federal mandates that require governments to spend money.

2. The Mandate Establishes Terms or Conditions for Federal Assistance in a Program or Activity in Which State, Local, or Tribal Governments Have Little Discretion Over Whether or Not to Participate

This will include mandates in entitlements and discretionary programs. It will exclude conditions of grants in small categorical programs that are distributed on the basis of annual or periodic applications and that are received only by a limited number of governments unless the conditions effectively limit access to such programs by small governments.

3. The Mandate Abridges Historic Powers of State, Local, or Tribal Governments, the Exercise of Which Would Not Adversely Affect Other Jurisdictions

This will include mandates that have an impact on internal State, local, and tribal government affairs related to issues not widely acknowledged as being of national concern and for which the absence of the mandate would not create adverse spillover effects. This also will include mandates that abridge the powers of State, local, or tribal governments to impose taxes within the limits of the U.S. Constitution and that provide particular tax treatment to particular classes of taxpayers.

4. The Mandate Imposes Compliance Requirements That Make it Difficult or Impossible for State, Local, and Tribal Governments to Implement

Implementation delays, issuance of court orders, or assessment of finds may be indicative of mandate requirements that go beyond State, local, or tribal fiscal resources, or administrative or technological capacity, after reasonable efforts at compliance have been made.

5. The Mandate has Been the Subject of Widespread Objections and Complaints by State, Local and Tribal Governments and Their Representatives

This will include mandates that are based on problems of national scope, but are not Federally funded.

Criteria for Formulating Recommendations

ACIR will investigate the specific characteristics of each Federal mandate causing significant concern in order to formulate specific recommendations, ACIR also will consider the beneficial and non-beneficial effects of mandates. For purposes of formulating such recommendations, ACIR will focus on specific provisions in laws, regulations, or court orders.

When a mandate affects a State, local, or tribal program that directly competes with a comparable private sector activity, ACIR will consider the effects of the mandate and the Commission recommendation on both the government and private sector. ACIR also will consider (1) impacts of mandates on working men and women and (2) mandates for utilization of metric systems.

ACIR will investigate each mandate selected for intensive review to determine whether or not they have one or more of the following characteristics that should be considered by ACIR in making its recommendations:

1. Federal Intrusion

- Requirements are not based on demonstrated national needs.
- Requirements are related to issues not widely recognized as national concerns or as being within the appropriate scope of Federal activities.
- Requirements are based on problems of national scope, but which State, local, or tribal governments have demonstrated ability or willingness to solve effectively, either independently or through voluntary cooperation.
- Requirements are based on problems of national scope, but are not Federally funded.

These mandates should be terminated, retained, funded, or modified to express non-binding national guidelines.

2. Unnecessarily Rigid

- Provisions do not permit adjustments to the circumstances or needs of individual jurisdictions.
- Provisions restrict flexibility to use less costly or less onerous alternative procedures to achieve the goal of the mandate.
- Provisions do not allow governments to set implementation or compliance priorities and schedules, taking into account risk analysis, greatest benefit, local capacity, or other factors.

These mandates should be modified to provide options, waivers, or exemptions, or be terminated.

3. Unnecessarily Complex or Prescriptive

- Requirements are unnecessarily detailed and difficult to understand.
- Provisions are too process-specific rather than results-oriented.

These mandates should be simplifed, clarified, or otherwise revised to facilitate understanding and implementation, or be terminated.

4. Unclear Goals or Standards

- Goals or standards are too vague, confusing, or poorly written to permit clear or consistent implementation of requirements or measurement of results.

These goals or standards should be rewritten or the mandate should be terminated.

5. Contradictory or Inconsistent

- Provisions in one mandate may make it difficult or impossible to comply with other provisions in the same or other Federal, State, local, or tribal laws.
- Requirements use conflicting and confusing definitions and standards.

These mandates should be modified to bring conflicting requirements into conformance. In some instances, it may be appropriate to terminate one or all of the requirements. Where possible, common definitions and standards should be used, especially in planning and reporting requirements.

6. Duplicative

- Provisions in two or more Federal mandates may have the same general goals but require different actions for compliance.

These mandates could be terminated, consolidated, or modified to facilitate compliance.

7. Obsolete

- Provisions were enacted when conditions or needs were different or before existing technologies were available.
- Provisions have been superseded by later requirements.

These mandates should be modified to reflect current conditions or existing technology. If a mandate is no longer necessary or has been superseded, it should be terminated.

8. Inadequate Scientific and Economic Basis

- Provisions were enacted based on inadequate or inconclusive scientific research or knowledge.
- Provisions are not based on current, peer-reviewed scientific research, when applicable.
- Provisions are not justified by appropriate risk assessment or cost-benefit studies.

These mandates should be terminated or modified to reflect current science. In some cases, suspension of the mandate may be appropriate to provide time for additional research.

9. Lacking in Practical Value

- Requirements do not achieve the intended results.
- Requirements are perceived by citizens as unnecessary, insignificant, or ineffective, thereby producing credibility problems for governments.
- Requirements have high costs relative to the importance of the issue.

These mandates should be evaluated to determine whether or not they are effective. If they cannot be shown to be effective and worthy of public support, they should be terminated. If they are effective, it still may be appropriate to suspend the mandates to allow time for public education and consensus building on their value.

10. Resource Demands Exceed Capacity

- Requirements for compliance exceed State, local, and tribal governments' fiscal, administrative, and/or technological capacity.

These mandates should be terminated or modified to reduce compliance problems, or assistance could be provided to upgrade capacity. In some instances, compliance schedule extensions or exemptions may be appropriate.

11. Compounds Fiscal Difficulties

- Compliance with the requirements of any one mandate or with multiple mandates compounds fiscal difficulties of governmental jurisdictions that are experiencing fiscal stress.

In these situations, certain of the mandates affecting the jurisdictions—exclusive of those that are vital to public health or safety—should be considered

for partial or total suspension until the government experiencing fiscal stress is able to comply. The conditions triggering considerations of such suspensions should include:

a. Governments faced with costs dramatically out of line with their revenue bases, as determined by comparisons with other similar governments that are complying. This may result from local and tribal governments experiencing fiscal stress due to depopulation, loss of tax base, or inability to raise matching funds from user fees due to low average household income or small population base; or

b. Governments that are experiencing severe fiscal distress for reasons not immediately within their control. There should be some definitive evidence of severe problems, such as State receivership, State declaration of distress, Chapter 9 bankruptcy, or a debt rating below investment grade. This should not include annual budget balancing problems.

Responses to Comments Received

In response to ACIR's notice of proposed criteria (60 FR 27324, May 23, 1995), comments were received from 20 individuals or organizations. ACIR considered all of the comments and incorporated those suggestions it found would aid in carrying out the studies directed by the Congress.

Several commentators misunderstood the purpose of the criteria, expressing concerns that they would be used to delay the approval of laws or regulations, or to provide a legal basis for challenging the implementation of mandates. The Commission added a statement to the introduction to make it clear that the criteria are solely designed to aid ACIR in this formulation of recommendations to the President and Congress. The criteria, as such, will not alter existing legislative or regulatory procedures.

Several commentators found that the criteria focused only on problems caused by mandates and did not recognize their positive results. They suggested that the criteria should evaluate positive benefits that may offset negative effects. In response, the Commission has added a paragraph in the introduction to make it clear that for its Section 302(a)(1) investigation and review of the role of federal mandates in intergovernmental relations, it will take into account the beneficial effects as well as the problems created by mandates as they are currently formulated. The benefits of mandates will also be examined for feasibility of quantification under the baseline study required by Section 301(b).

In addition, a statement was added to the introduction of the section on criteria for formulating recommendations that beneficial effects will be considered when making recommendations because of problems revealed by the criteria.

Commentators also pointed out that in addition to modification, suspension, or termination, the Commission could recommend retention of a mandate. The list of possible recommendations in the introduction has been amended to add ''retain'' as an option.

Several commentators were concerned that some terms in the criteria as not well defined and are subject to different interpretations. The final responsibility for determining the application and interpretation of the criteria in making recommendations will be left to the judgment of the Commission. The language in the fifth paragraph of the introduction has been amended to clarify that this is a Commission responsibility.

A commentator was concerned that the effects of State mandates would be difficult to separate from the effects of Federal mandates, and some Federal mandates may be welcomed. While it may be difficult to make such separations, no change in the criteria seem necessary to address this problem.

One commentator expressed concern that to exclude from review conditions of discretionary grants in small categorical programs could overlook the burdensome nature of grant requirements on small rural governments. To correct this concern, the criteria for selecting mandates of significant concern has been modified to include any mandates that would have the practical effect of limiting small governments' access to aid.

One commentator suggested that the criterion identifying mandates that abridge historic powers should specifically include those that affect state and local tax powers that are otherwise Constitutional. This was added to the criterion.

A suggestion was made to add ''tribal'' to state and local governments in the fifth criterion for identifying mandates. This omission has been corrected.

Several commentators were concerned that under the criterion of federal intrusion the suggested actions included only making the mandates voluntary or terminating them. Wording was added to provide the alternative of retaining the mandate and providing federal funding of the mandate.

Several commentators suggested that the criterion ''Inadequate Scientific Basis'' could be inimical to health by enabling the repeal or restriction of health or environmental reforms because it is so broad and subject to interpretation. There were also questions raised about its applicability in some situations. Finally, it was noted that the reference to cost-benefit studies is an economic concern, not a scientific one. Several changes were made as a result of these comments, including addition of ''economic'' to the title, addition of ''when applicable'' after ''peer-reviewed scientific research''; and addition of ''appropriate'' before ''risk-assessment.'' The concerns that this criterion might delay or otherwise interfere with legislation or regulations was addressed earlier in the explanation that these criteria are only for use by ACIR in formulating its recommendations.

A comment was received that Section 4 of the Act would exclude certain mandates from Commission review, even though they would otherwise qualify for review under the definition in Section 305. Section 4 exclusions apply only to mandates that are before the Congress or in a proposed or final federal regulation. Another commentator suggested that legislated mandates that had been confirmed by the U.S. Supreme Court should be beyond the scope of Commission review. Because of the clear intent of the law is to require ACIR to consider mandates established by statute or court orders, no change has been made in the criteria.

One commentator suggested deleting all the criteria proposed for selecting mandates of significant concern, and relying on the criteria for making recommendations to determine which mandates are to be reviewed. The first set of criteria serve the purpose of avoiding a very detailed review of every existing grant and mandate, and they have been kept. The second set of criteria will then be applied only to those mandates selected for more detailed review.

One commentator expressed concern that the criterion on compounding fiscal difficulties was not specific enough to encompass some situations being experienced by small rural governments and Indian tribes. Additional explanatory language was added to clarify situations in which the criterion might apply.

A commentator suggested that in making its recommendations ACIR address the cumulative cost effects of multiple federal mandates, especially on small governments. Estimating cumulative cost effects will not be feasible in this study, but will be considered as a part of the

Commission's Section 301 Baseline Study.

Dated: June 28, 1995.

William E. Davis III,

Executive Director.

[FR Doc. 95–16547 Filed 7–5–95; 8:45 am]

BILLING CODE 5500–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Request for Application in Democracy and Governance

The U.S. Agency for International Development (USAID's) Center for Democracy and Governance has the goal of promoting sustainable development by providing technical and intellectual leadership services in democracy and governance. The purpose of the activities that constitute the two Democracy Center programs described in the Request for Application (RFA) is to enhance the Agency's capacity to support the growth and sustainability of (1) electoral and political processes and (2) women's participation in electoral and political processes in transition and sustainable development countries, and in non-presence countries.

To assist in achieving these objectives, the Democracy Center anticipates awarding at least $500,000 a year for each of three years to each of two elections awards resulting from this RFA. In addition, other funding sources, including USAID Regional Bureaus and field Missions, could possibly provide up to several million dollars in additional funds for each award.

There will be one award for strengthening women's political participation resulting from this RFA. The anticipated funding level for the award is $1 million for the entire three year period.

The RFA is being issued on June 26, 1995, and will close on August 4, 1995. Those interested in receiving a Request for Application should send a letter referencing solicitation OP/B/AEP–A–95–011 along with 3 self-addressed mailing labels. Telephone or fax requests for the solicitation will NOT be honored. All RFA's will be mailed through the U.S. postal service. RFA's will not be express mailed. Address requests to: United States Agency for International Development, G/DG, Ms. Amy Young, Room 5258, Washington, D.C. 20523–0090.

This notice can be viewed and downloaded using the Agency Gopher. The RFA can be downloaded from the Agency Gopher. The Gopher address is GOPHER.INFO.USAID.GOV. Select USAID Procurement and Business Opportunities from the Gopher menu. The RFA text can be downloaded via Anonymous File Transfer Protocol (FTP). The FTP address is FTP.INFO.USAID.GOV. Log on using the user identification of ''anonymous'' and the password is your e-mail address. Look under the following directory for the RFA: pub/OP/RFA/BAEP511/baep511.rfa. Receipt of this RFA through Internet must be confirmed by written notification to the contract person noted above. This will ensure that you will receive amendments to the solicitation. It is the responsibility of the recipient of this solicitation document to ensure that it has been received from Internet in its entirety and USAID bears no responsibility for data errors resulting from transmission or conversion processes.

Dated: June 27, 1995.

Charles Costello,

Deputy Assistant Administrator, Center for Democracy and Governance, Bureau for Global Programs, Field Support and Research.

[FR Doc. 95–16532 Filed 7–5–95; 8:45 am]

BILLING CODE 6116–01–M

[Delegation of Authority No. 14–01]

Inspector General; Delegation of Authority and Line of Succession

Delegation of Authority No. 14–01 is hereby issued to effect a delegation of authority and provide a line of succession from the Inspector General as follows:

I. Pursuant to authority vested in me by the Inspector General Act of 1978, as amended, in the event of the death, disability, absence, resignation, or removal of the Inspector General, U.S. Agency for International Development, the officials designated below, in the order indicated, and in the absence of the specific designation of another official in writing by the Inspector General or the Acting Inspector General, are hereby authorized to and shall served as Acting Inspector General and shall perform the duties and are delegated the full authority and power ascribed to the Inspector General by law and regulation as well as those authorities delegated to the Inspector General by the Administrator, U.S. Agency for International Development:

1. Deputy Inspector General.
2. Assistant Inspector General for Audit.
3. Assistant Inspector General for Security.
4. Assistant Inspector General for Investigations.

II. Anyone designated by the Inspector General as acting in one of the positions listed above remains in the line of succession; otherwise, the authority moves to the next position.

III. This delegation is not in derogation of any authority residing in the above officials relating to the operations of their respective programs, nor does it affect the validity of any delegations currently in force and effect and not specifically cited as revoked or revised herein.

IV. The authorities delegated herein may not be redelegated.

Dated: June 29, 1995.

Jeffrey Rush, Jr.,

Inspector General.

[FR Doc. 95–16531 Filed 7–5–95; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–724 (Final)]

Manganese Metal From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–724 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China (China) of manganese metal, provided for in subheadings 8111.00.45 and 8111.00.60 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 13, 1995.

[1] The product covered by this investigation is manganese metal, which is composed principally of manganese, by weight, but which also contains some impurities such as carbon, sulfur, phosphorous, iron, and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this investigation, including metal flake, powder, compressed powder, and fines.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of manganese metal from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C.§ 1673b). The investigation was requested in a petition filed on November 8, 1994, by Elkem Metals Company, Pittsburgh, PA, and Kerr-McGee Chemical Corporation, Oklahoma City, OK.

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on September 29, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on October 12, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 2, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 4, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is October 6, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is October 19, 1995, and the deadline for filing supplemental briefs is November 3, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 19, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: June 28, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–16581 Filed 7–5–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–175]

Rum: Annual Report on Selected Economic Indicators

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

EFFECTIVE DATE: June 29, 1995.

SUMMARY: On January 13, 1984, following the receipt of a request from the Committee on Finance of the U.S. Senate, the Commission instituted investigation No. 332–175, Rum: Annual Report on Selected Economic Indicators, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Notice of the investigation was published in the **Federal Register** of January 25, 1984 (49 FR 3145). On June 20, 1995, the Commission received a letter from the Committee on Finance of the U.S. Senate requesting that the Commission terminates its section 332 investigation on rum. Accordingly, on June 29, 1995, the Commission terminated investigation No. 332–175.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Schneider (202–205–3326), Agriculture Division, Office of Industries, or Mr. William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: June 30, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–16582 Filed 7–5–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32694]

A. & R. Line, Inc.—Acquisition Exemption—Winamac Southern Railway Company

A. & R. Line, Inc. (A&R), a noncarrier, has filed a notice of exemption to acquire approximately 27.4 miles of rail line owned by Winamac Southern Railway Company (WSR), extending southeasterly from milepost 25.7 at Winimac, IN, to milepost 5.0 at Kenneth, IN, and thence eastwardly to milepost 74.5 at Logansport, IN.[1] WSR will continue to operate the property as a common carrier; A&R will acquire the residual common carrier obligation. The exemption became effective on April 27, 1995. Any comments must be filed with the Commission and served on: Richard H. Streeter, Barnes & Thornburg, 1401 Eye St., N.W., Suite 500, Washington, DC 20005.

This notice is filed under 49 CFR 1150.31. 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.

Decided: June 27, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–16467 Filed 7–5–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32693]

Daniel R. Frick—Continuance in Control Exemption—J.K. Line, Inc., Winimac Southern Railway Company, and A. & R. Line, Inc.

Daniel R. Frick (Frick), a noncarrier individual, has filed a notice of exemption to continue in control of A. & R. Line, Inc. (A&R), upon A&R becoming a class III rail carrier.

A&R, a noncarrier, has concurrently filed a notice of exemption in *A. & R. Line, Inc.—Acquisition Exemption—Winimac Southern Railway Company,* Finance Docket No. 32694, to acquire approximately 27.4 miles of rail line owned by Winimac Southern Railway Company (WSR) extending southeasterly from milepost 25.7 at Winimac, IN, to milepost 5.0 at Kenneth, IN, and thence eastwardly to milepost 74.5 at Logansport, IN. WSR will continue to operate the line as a common carrier, and A&R will acquire the residual common carrier obligation. The exemption became effective on April 27, 1995.

Frick owns and controls J.K. Line, Inc. (JK), a nonconnecting class III rail carrier operating in Indiana. Frick also controls WSR, a contiguous carrier. However, in a third supplement to the notice of exemption filed June 23, 1995, Frick states that prior to consummating the transaction in Finance Docket No. 32694, he will sell his majority interest in WSR to shareholders of Central Properties, Inc. Thus, upon consummating this transaction, Frick states that he will not control WSR but will be reduced to a minority shareholder.

Frick states that: (1) the line acquired by A&R does not connect with the lines operated by JK; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or with any railroad in the corporate family; and (3) the transaction does not involve a class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

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: Richard H. Streeter, Barnes & Thornburg, 1401 Eye St., N.W., Suite 500, Washington, DC 20005.

Decided: June 27, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–16468 Filed 7–5–95; 8:45 am]

BILLING CODE 7035–01–P

[1] In a related notice of exemption, filed April 20, 1995, and supplemented May 5, 1995, June 5, 1995, and June 23, 1995, Daniel R. Frick seeks to continue to control A&R when it becomes a class III rail carrier. *Daniel R. Frick—Continuance in Control Exemption—J.K. Line, Inc., Winimac Southern Railway Company, and A. & R. Line, Inc.,* Finance Docket No. 32693. Publication of the instant notice was deferred pending filing of clarifying supplemental information in Finance Docket No. 32693.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 14, 1995, Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Amphetamine (1100).

The firm plans to manufacture Amphetamine for distribution of the bulk active substance to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 7, 1995.

Dated: June 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–16621 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 17, 1995, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Pholcodine (9314)	I
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II

Drug	Schedule
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firms plan to manufacture the listed controlled substances for distribution as bulk pharmaceutical products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 7, 1995.

Dated: June 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–16619 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substance; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CAR), notice is hereby given that on May 18, 1995, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances for the manufacture of bulk pharmaceutical controlled substances.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 7, 1995.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46, (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–16620 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–09–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Nomination for Young American Medal for Bravery 19xx.

(2) FORM OJP–1673/1. Office of Justice Programs, United States Department of Justice.

(3) Primary=State, Local or Tribal Government. Others: Individuals or households, Not-for-profit institutions. 42 United States Code 1921 et. seq. authorizes the Department of Justice to collect information from State Governors, Chief Executives of the United States Territories, and the Mayor of the District of Columbia to implement the Young American Medals Program. The Young American Medal for Bravery is awarded to those United States residents who, during a given calendar year, have exhibited exceptional courage, attended by extraordinary decision, presence of mind, and unusual swiftness of action, regardless of personal safety, in an effort to save or saving the life of any person or persons in actual imminent danger.

(4) 20 total annual respondents at 3.0 hours per response.

(5) 60 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 28, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–16483 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 30503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Nomination for Young American Medal for Service.

(2) FORM OJP–1673/1. Office of Justice Programs, United States Department of Justice.

(3) Primary—State, Local or Tribal Government. Others: Individuals or households, Not-for-profit institutions. 42 United States Code 1921 et seq. authorizes the Department of Justice to collect information from State Governors, Chief Executives of the United States Territories, and the Mayor of the District of Columbia to implement the Young American Medals Program. The Young American Medal for Service is awarded to those United States citizens who, during a given calendar year, have achieved outstanding or unusual recognition for character and service. Character demonstrated and service accomplished must have been worthy of public report, and must not have been undertaken for the specific purpose of receiving any form of recognition. No more than two such medals are awarded each year. The candidate must have been 18 years of age or under at the time his or her service received public recognition.

(4) 20 total annual respondents at 3.0 hours per response.

(5) 60 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 28, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–16481 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–18–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with 28 CFR 50.7, notice is hereby given that on June 16, 1995, a proposed consent decree in *United States of America* v. *Anthony Dell'Aquila Enterprises and Subsidiaries, et al.*, Civil Action No. 88–3232 (JCL), was lodged with the United States District Court for the District of New Jersey. The United States' complaint sought injunctive relief and civil penalties under the Clean Air Act (''CCA'') against Anthony Dell'Aquila Enterprises and Subsidiaries (''Dell'Aquila''), Harry Grant, and Sandalwood Construction Company in regard to violations of the National Emission Standards for Hazardous Air Pollutants for asbestos (''asbestos NESHAP'') at a facility owned by Dell'Aquila in Hoboken, New Jersey (''Dell'Aquila site''). The consent decree is signed on behalf of Dell'Aquila and the Trustee of the bankruptcy estate in a bankruptcy proceeding that was initiated by Dell'Aquila in 1990, *In re Dell'Aquila*, Case No. 90–21873 (Bankr. N.J.). The consent decree does not address the liability of Harry Grant or Sandalwood Construction Company, and the complaint against those defendants remains pending.

The consent decree provides that the Trustee, on behalf of Dell'Aquila, shall pay from the bankruptcy estate a civil penalty of $400,000, as an administrative expense, to the United States upon the effective date of a plan of reorganization or liquidation in the bankruptcy proceeding. The consent decree also provides, *inter alia*, that both Dell'Aquila and the Trustee shall conduct all demolition or renovation operations at the Dell'Aquila site in compliance with the asbestos NASHAP and that Dell'Aquila, prior to commencing any demolition or renovation operation at any facility for which he is an owner or operator, shall hire an accredited building inspector who will complete a thorough asbestos identification survey for the presence of asbestos containing material and will provide a copy of the survey to the U.S. Environmental Protection Agency (''EPA'').

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30)

days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Anthony Dell'Aquila Enterprises and Subsidiaries, et al.*, D.J. Ref. 90–5–2–1–1288.

The proposed consent decree may be examined at the office of the United States Attorney, 970 Broad St., Room 502, Newark, N.J. 07102 and at the Region II office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007. The proposed consent decree may also be examined at the Consent Decree Library, 1120 G. St., NW., 4th Floor, Washington, DC. 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G. St., NW., 4th Floor, Washington, DC. 20005. In requesting a copy, please enclose a check in the amount of $5.00 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.''

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 95–16487 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed consent decree in *United States* v. *Housing Authority of the City of New Haven and Aaron Gleich, Inc.*, Civil Action No. 3:91CV00231 (AHN), was lodged on June 21, 1995 with the United States District Court for the District of Connecticut.

The complaint in this action was filed on April 29, 1991 against the Housing Authority of the City of New Haven (''HANH'') and Aaron Gleich, Inc., (''AGI''), pursuant to section 113(b) of the Clean Air Act (''Act''), 42 U.S.C. 7413(b). The complaint sought penalties and injunctive relief for violations of Section 112(c) of the Act, 42 U.S.C. 7412(c), and of the National Emission Standard for Hazardous Air Pollutants for asbestos, 40 CFR part 61, subpart M (''Asbestos NESHAP''). The complaint alleged that violations of the Asbestos NESHAP occurred in connection with a demolition project at the Elm Haven Extension Housing Project (''Elm Haven Project'') located in New Haven, Connecticut, that took place in 1990. AGI performed this demolition work for HANH, which owned and operated the Elm Haven Project.

The proposed consent decree embodies an agreement by HANH and AGI to pay a civil penalty in the amount of $43,000. In addition, AGI and HANH have agreed to comply with the Asbestos NESHAP in connection with any future asbestos abatement projects, and have also agreed to implement other measures to reduce the likelihood of future violations of the Asbestos NESHAP.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Housing Authority of the City of New Haven and Aaron Gleich, Inc.* DOJ Ref. # 90–5–2–1–1547.

The proposed Consent Decree may be examined at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston Massachusetts, at the United States Attorney's Office located at the Connecticut Financial Center, 24th Floor, 157 Church Street, New Haven, Connecticut 06150, and at the Consent Decree Library, 1120 G street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.50 payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Section Chief, Environmental Enforcement Section.

[FR Doc. 95–16488 Filed 7–5–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

June 30, 1995.

The Department of Labor has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act (44 U.S.C. Chapter 35) of 1980, as amended (P.L. 96–511). Copies may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Comments and questions about the ICRs listed below should be directed to Ms. O'Malley, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10325, Washington, DC 20503 ((202) 395–7316).

Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1 p.m. and 4 p.m. Eastern time, Monday through Friday.

Type of Review: Extention.

Agency: Departmental Management.

Title: National Agricultural Workers Survey (NAWS).

OMB Number: 1225–0044.

Frequency: Annual.

Affected Public: Individuals or households; Farms.

Number of Respondents: 3,850.

Estimated Time Per Respondent: .83 hours.

Total Burden Hours: 3,255.

Description: The National Agricultural Workers Survey (NAWS) provides data to public and private programs and data analysis which are used for planning, implementing, and evaluating farmworker programs. Analysis provides an understanding of the manpower resources available to the United States agriculture and the importance of immigrants in the labor market. It is the only national source of data on the demographic and employment characteristics of farmworkers.

Type of Review: New.

Agency: Departmental Management.

Title: Generic Clearance—Supreme Court Decision Hours.

OMB Number: 1225–0new.

Frequency: One-time.

Affected Public: Business or other for-profit.

Total Respondents: 6,223,637.

Total Burden Hours: 4,820,316.

Description: The Department of Labor is seeking to reinstate as burden hour adjustments those third-party disclosure paperwork burden hours for twenty-two information collection requests previously deleted as adjustments resulting from the Dole, Secretary of Labor, et al v. United Steelworkers of American, Opinion of the Court 494 U.S. 26, 33 (1990) decision. These third-party burden hours are considered

subject to Office of Management and Budget review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA 95).

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Employer's First Report of Injury or Occupational Illness; Physician's Report of Impairment of Vision; Employer's Supplementary Report of Accident or Occupational Illness.

OMB Number: 1215–0031.

Agency Number: LS–202; LS–205; LS–210.

Frequency: As needed.

Affected Public: Individuals or households; Business or other for-profit.

Collection	Respondents	Average time per respondent
LS–202	31,000	15 minutes.
LS–205	100	45 minutes.
LS–210	42,000	15 minutes.

Total Burden Hours: 8,650.

Description: These forms are used to report injuries, periods of disability, and medical treatment under the Longshore and Harbor Workers' Compensation Act.

Type of Review: Revision.

Agency: Pension Welfare Benefits Administration.

Title: Summary Plan Description Requirements under ERISA.

OMB Number: 1210–0039.

Frequency: 5 or 10 year cycle depending on whether a plan is amended in initial 5 years.

Affected Public: Business or other-profit; Not-for-profit institutions.

Number of Respondents: 174,700.

Estimated Time per Respondent: 41 hours.

Total Burden Hours: 7,174,450.

Description: As required by the Employee Retirement Income Security Act (ERISA), this existing regulation provides plan administrators with the procedures and guidelines necessary to furnish plan participants and beneficiaries with Summary Plan Descriptions that clearly explain their rights and obligations.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Pension Welfare Benefits Administration.

Title: Summary Annual Report.

OMB Number: 1210–0040.

Frequency: Annually.

Affected Public: Business or other for-profit.

Number of Respondents: 749,205.

Estimated Time per Respondent: 30 minutes; 15 minutes.

Total Burden Hours: 5,878,021.

Description: Employee benefit plans are required by law, with some exceptions, summary annual reports to participants and beneficiaries for purposes of communicating basic financial information about the plan's operations and performance.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Pension Welfare Benefits Administration.

Title: DOL Regulation 2560.503–1 Claims Procedure.

OMB Number: 1210–0053.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 23,454.

Estimated Time per Respondent: 15 minutes; 30 minutes; 10 minutes.

Total Burden Hours: 7,063.

Description: This regulation requires employee benefit plans to establish procedures which provide adequate written notice to any participant or beneficiary of an employee benefit plan whose claim has been denied. As opportunity for review of a denied claim must also be provided; the decision upon a review must also be in writing.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Pension Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 86–128.

OMB Number: 1210–0059.

Frequency: Quarterly; Annually.

Affected Public: Business or other for-profit.

Number of Respondents: 163,562.

Estimated Time per Respondent: 1 hour 40 minutes; 10 minutes.

Total Burden Hours: 64,743.

Description: This class exemption exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA) the affecting or executing of securities transactions on behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan and who is acting in such transactions as agent for the plan.

Type of Review: Extension.

Agency: Pension Welfare Benefits Administration.

Title: ERISA Technical Release 91–1.

OMB Number: 1210–0084.

Frequency: On occasion.

Affected Public: Business and other for-profit.

Number of Respondents: 30.

Estimated Time per Respondent: 116 hours.

Total Burden Hours: 3,350.

Description: This technical release alerts the public to amendments to Title I of the Employee Retirement Income Security Act (ERISA) which, among other things, requires that advance notification be provided to the Secretaries of Labor and Treasury, as well as other persons, of an intended transfer of excess pension assets from a defined benefit plan to a retiree health benefit account, described in section 401(h) of the Internal Revenue Code, which is part of such plan.

Type of Review: New.

Agency: Pension Welfare Benefits Administration.

Title: Prohibited Transaction Exemption 85–68.

OMB Number: 1210–0new.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 1.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 1.

Description: This class exemption exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA), certain transactions involving an employee benefit plan's purchase of customer notes of an employer.

Type of Review: New.

Agency: Pension Welfare Benefits Administration.

Title: Prohibited Transaction Exemption 8–59.

OMB Number: 1210–0new.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 1.

Estimated Time Per Respondent: 1 hour.

Total Burden Hours: 1.

Description: This class exemption exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA), certain transactions involving residential mortgage financing arrangements.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Pension Welfare Benefits Administration.

Title: Regulation Regarding Participant Directed Individual Account Plans (ERISA Section 404(c)).

OMB Number: 1210–0new.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 55,747.
Estimated Time per Respondent: 7 hours; 1 hour; ½ hour.
Total Burden Hours: 303,249.
Description: Employee benefit plans which choose to relieve liability for certain plan fiduciaries pursuant to the Employee Retirement Income Security Act of 1974 section 404(c) are required to provide participants and beneficiaries with sufficient information to make informed decisions with regard to investments, as described in 29 CFR 2550.404c-1.

Type of Review: New.
Agency: Pension Welfare Benefits Administration.
Title: Prohibited Class Exemption 75–1.
OMB Number: 1210–0new.
Frequency: On occasion.
Affected Public: Business or other for-profit.
Number of Respondents: 1.
Estimated Time per Respondent: 1 hour.
Total Burden Hours: 1.
Description: This class exemption exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA), registered broker-dealers and reporting dealers in Government securities who are parties in interest to engage in certain kinds of securities transaction with plans.

Type of Review: Revision.
Agency: Occupational Safety and Health Administration.
Title: Hazard Communication.
OMB Number: 1218–0072.
Frequency: On occasion.
Affected Public: Business or other for-profit.
Number of Respondents: 5.04 million.
Estimated Time per Respondent: 1* hours.
Information Collection Requirement/ Burden Hours
(a) Written Hazard Communication Program—2,117,134*
(b) Hazard Determination—216,168
(c) MSDSs Existing Establishments—535,290
(d) MSDSs New Establishments—511,375
(e) Obtaining and Maintaining MSDSs Existing Establishments—2,016,768
(f) Obtaining and Maintaining MSDSs New Establishments—511,375
(g) Labeling Shipped Containers—5,904,901
(h) Labeling In-Plant Containers—1,476,225
(i) Access to Trade Secrets—201,447
(j) Employee Access—151,258
(k) Federal Access—594

Total Burden Hours: 13,645,535.
Description: The Hazard Communication Standard and its information collection requirements is designed to ensure the transmittal of complete hazard information to employees and downstream employers. The standard requires employers to establish hazard communication programs, to transmit information on the hazard of chemicals to their employees by means of labels on containers, material safety data sheets (MSDS), and training programs. Implementation of these hazard communication programs will ensure all employees have the ''right-to-know'' the hazards and identities of the chemicals they work with, and will reduce the incidence of chemically-related occupational illnesses and injuries.

As a result of the February 21, 1990, Supreme Court decision, *Dole* v. *United Steelworkers of America* 494 U.S. 26 (1990), disclosure requirements to employees, and nongovernmental third parties were no longer applicable for Office of Management and Budget review under the Paperwork Reduction Act of 1980, as amended, and relevant hours were taken out of the paperwork package and inventory. As a result of the Paperwork Reduction Act of 1995, hours for these disclosure provisions are being included in the paperwork package.

Type of Review: Reinstatement.
Agency: Occupational Safety and Health Administration.
Title: Powered Platforms for Building Maintenance.
OMB Number: 1218–0121.
Frequency: Every five years.
Affected Public: Business or other for-profit.
Number of Respondents: 900.
Estimated Time per Respondent: .98 hours.
Total Burden Hours: 882.
Description: The Occupational Safety and Health Administration requires employers to collect information which will assure that employees who operate powered platforms received uniform and comprehensive instruction and information in the operations, safe use, and inspection of powered platform equipment.

Type of Review: Reinstatement.
Agency: Occupational Safety and Health Administration.
Title: Accident Prevention Tags.
OMB Number: 1218–0132.
Frequency: On occasion.
Affected Public: Business or other for-profit.
Number of Respondents: 2,092,500.
Estimated Time per Respondent: 20 seconds.
Total Burden Hours: 30,225.
Description: These requirements regulate the design and use of accident prevention tags. Accident prevention tags are used to temporarily identify hazardous or potentially hazardous workplace conditions that are out-of-the-ordinary, unexpected or not readily apparent. The affected public includes all sections of ''general industry.''

Type of Review: Revision.
Agency: Occupational Safety and Health Administration.
Title: Occupational Exposure to Asbestos—Construction.
OMB Number: 1218–0134.
Frequency: On occasion.
Affected Public: Business or other for-profit.
Number of Respondents: 13,428,966.
Estimated Time per Respondent: 3.6 hours.
Total Burden Hours: 8,643,317.
Description: The asbestos standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to asbestos. The standard requires that employers must establish and maintain a training and compliance program, including exposure monitoring and medical surveillance records. In addition, building owners and employers must inform employees about the existence of asbestos containing material and potential asbestos containing material in the facility. Required information is used by employees, physicians, employers and the Occupational Safety and Health Administration (OSHA) to ensure employees are being protected from exposure to asbestos. Also, the standard required that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the asbestos standard.

Type of Review: Reinstatement.
Agency: Occupational Safety and Health Administration.
Title: Control of Hazardous Energy Sources (Lockout/Tagout).
OMB Number: 1218–0150.
Frequency: Annually.
Affected Public: Business or other for-profit.
Number of Respondents: 631,000.
Estimated Time per Respondent: .52 hours.
Total Burden Hours: 555,293.
Description: This standard covers with the control of hazardous energy (lockout/tagout) during the servicing or maintenance of machines or equipment as a complete concept.

Type of Review: Revision.
Agency: Occupational Safety and Health Administration.

* Estimate for hours per response addresses automated labeling.

Title: Occupational Exposure to Bloodborne Pathogens (General Industry and Shipyards).

OMB Number: 1218–0180.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 511,755.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 5,100,194.

Description: The bloodborne standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to bloodborne pathogens. The standard requires that employers must establish and maintain a training and compliance program, including exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and the Occupational Safety and Health Administration (OSHA) to determine the effectiveness of the employers' compliance efforts. Also, the standard required that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the bloodborne standard.

Type of Review: Revision.

Agency: Occupational Safety and Health Administration.

Title: Occupational Exposure to Cadmium—General Industry.

OMB Number: 1218–0185.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 54,544.

Estimated Time Per Respondent: .28 hours.

Total Burden Hours: 155,948.

Description: The cadmium standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to cadmium. The standard requires that employers must establish and maintain a training and compliance program, including exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and the Occupational Safety and Health Administration (OSHA) to determine the effectiveness of the employers' compliance efforts. Also, the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the cadmium standard.

Type of Review: Revision.

Agency: Occupational Safety and Health Administration.

Title: Lead in Construction.

OMB Number: 1218–0189.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 147,000.

Estimated Time per Respondent: .36 hours.

Total Burden Hours: 2,268,625.

Description: The lead in construction standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to lead. The standard requires that employers must establish and maintain a training and compliance program, including exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and the Occupational Safety and Health Administration (OSHA) to determine the effectiveness of the employers' compliance efforts. Also, the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the lead standard.

Type of Review: Revision.

Agency: Occupational Safety and Health Administration.

Title: Occupational Exposure to Asbestos (Shipyards).

OMB Number: 1218–0195.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 52.

Estimated Time per Respondent: .54 hours.

Total Burden Hours: 1,439.

Description: The asbestos standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to asbestos. The standard requires that employers must establish and maintain a training and compliance program, including exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and the Occupational Safety and Health Administration (OSHA) to determine the effectiveness of the employers' compliance efforts. Also, the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the asbestos standard.

Type of Review: New.

Agency: Occupational Safety and Health Administration.

Title: Permit Required Confined Spaces.

OMB Number: 1218–0 new.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 238,853.

Estimated Time Per Respondent: 10.6 hours.

Total Burden Hours: 2,153,184.

Description: Regulatory provision 29 CFR 1910.146 prescribes standards for protecting employees from the hazards associated with entry into permit required confined spaces. The standard requires the creation of a written permit entry plan and the use of written permits to enter permit spaces. Employees risk exposure to hazards such as toxic and explosive atmospheres, oxygen deficient atmospheres, electric and mechanical energy, inwardly sloping walls and immersion in flowing material.

Type of Review: New.

Agency: Occupational Safety and Health Administration.

Title: OSHA Log Collection System.

OMB Number: 1218–0 new.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 100,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 35,000.

No. of respondents OSHA collection	No. of respondents BLS/OSHA overlap	No. of respondents OSHA only collection	Average of completion time (minutes)	Total burden hours
100,000	*30,000	70,000	30	35,000

*These respondents will complete a carbon pack form that can be separated with only copy to be returned to OSHA in a self-addressed stamped envelope and another copy to be returned to BLS in the BLS Annual Survey of Occupational Injuries and Illnesses collection package. BLS/OSHA overlap burden is included in 1220–0029.

Description: To meet many of OSHA's program needs, OSHA is proposed to develop a system to collect occupational injury and illness data from establishments in portions of the private sector. OSHA will collect data from 100,000 employers with 50 or more employees in selected high hazard industries. These data will allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing serious safety and health problems. Successful implementation of the data collection initiative is critical to OSHA's reinvention efforts and the data requirements tied to the Government Performance and Results Act (GPRA).

Type of Review: New.

Agency: Occupational Safety and Health Administration.

Title: Powered Industrial Truck Operator Training (1910.178).

OMB Number: 1218–0 new.

Frequency: Once initially; refresher training when necessary.

Affected Public: Business or other for-profit.

Number of Respondents: 150,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 1 hour (NPRM); proposed 2,017,654.

Description: OSHA has proposed to review 29 CFR 1910.178(5)(i) which will require that employers certify that each operator has received training, has been evaluated and as required by this paragraph, and has demonstrated competency in performance of the operator's duties.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Claims and Payments Activities.

OMB Number: 1205–0010.

Agency Number: ETA 5159.

Affected Public: State, Local or Tribal Government.

Form	Respondents	Frequency	Estimated time per respondent
Regular	53	Monthly	2 hours.
Extended Benefits	33	Six Times	1 hour 45 minutes.
Short Time Compensation	11	Six Times	1 hour.

Total Burden Hours: 1,359.

Description: Data measures workload and provides quantitative measurement for budget estimates, administrative planning and program evaluation. This is a major vehicle for accounting to the public.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Labor Standards for Registration of Apprenticeship Programs (29 CFR Part 29).

OMB Number: 1205–0223.

Agency Number: ETA 671.

Frequency: One-time.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Section	Respondents	Estimated time per respondent
29.3	105,000	15 minutes.
29.6	99,000	50 minutes.
29.5	5,700	50 minutes.

Total Burden Hours: 45,903.

Description: Title 29 CFR Part 29 sets forth labor standards to safeguard the welfare of apprentices and to extend the application of such standards by prescribing policies and procedures concerning registration of apprenticeship programs.

Type of Review: Extension

Agency: Employment and Training Administration.

Title: Equal Employment Opportunity in Apprenticeship and Training (29 CFR part 30).

OMB Number: 1205–0224.

Agency Number: ETA 9039.

Frequency: One-time.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Section	Respondents	Estimated time per respondent
30.3	4,950	30 minutes.
30.4	550	1 hour.
30.5	5,000	30 minutes.
30.6	50	5 hours.
30.8	44,000	1 minute.
30.8	22,000	5 minutes.
30.11	30	30 minutes.

Total Burden Hours: 45,903.

Description: Title 29 CFR Part 30 sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the Department of Labor and recognized state apprenticeship agencies.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Standard Job Corps Center Request for Proposal and related Contractor Information Gathering.

OMB Number: 1205–0219.

ETA Form #	Affected public	Respondents	Frequency	Estimated time per respondent
6–37, 6–38, 6–39	JC Centers	109	Quarterly	15 minutes.
6–127	JC Centers	109	Monthly	2 hours.
6–125	JC Centers	109	Annually	15 minutes.
6–128	JC Centers	109	Annually	2 minutes.
2181, 2181A	JC Centers	252	Annually	2 hours.
2110	JC Centers	109	Monthly	2.5 hours.
6–124	JC Centers	109	Annually	1 hour.
6–142B	JC Centers	109	Monthly	3 hrs 33 min.
3–28	JC Centers	79	373	1 minute.
6–131A	Corpsmembers	1,500	One-time	3 minutes.
6–131B	Corpsmembers	3,000	One-time	9 minutes.
6–131C	Corpsmembers	1,500	One-time	1 minute.

ETA Form #	Affected public	Respondents	Frequency	Estimated time per respondent
6–101	Corpsmembers	506	As needed	3 minutes.
6–104	Corpsmembers	10,100	As needed	1 minute.
6–105	Corpsmembers	60,300	Annually	3 minutes.
6–108	Corpsmembers	1,508	Weekly	3 minutes.
6–61	Corpsmembers	60,300	One-time	9 minutes.
6–102	Corpsmembers	3,515	As needed	9 minutes.
6–103	Corpsmembers	252	As needed	3 minutes.
6–40	Corpsmembers	60,300	One-time	2 minutes.
6–99	Corpsmembers	60,300	One-time	9 minutes.
6–112	Corpsmembers	60,300	One-time	1 minute.
6–135	Corpsmembers	60,300	One-time	1 minute.
6–136	Corpsmembers	60,300	One-time	9 minutes.
Center Operating Plan	JC Centers	79	Annually	28 hours.
Maintenance Plan	JC Centers	79	Annually	5 hours.
C/M Welfare Plan	JC Centers	109	Annually	2 hours.
JC Student Receipt Form	JC Centers	75,000	Quarterly	3 minutes.
Annual VST (if applicable)	JC Centers	109	Annually	4 hours.
Energy Conservation	JC Centers	109	Annually	5 hours.
Outreach Screening (if applicable)	JC Centers	109	Annually	2 hours.
Annual Staff Training	JC Centers	109	Annually	1 hour.
Procurement Activity	JC Contractors	8	As needed	2,200 hours.

Total Burden Hours: 118,506.

Description: This information collection is the standard request for proposal (RFP) for the operation of a Job Corps Center completed by prospective contracts for competitive procurement and Federal paperwork requirements for contract operators of such centers.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Alien Claimant Activity Report.

OMB Number: 1205–0268.

Agency Number: ETA 9016.

Frequency: Quarterly.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 53.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 212.

Description: This report allows assessment of cost efficiency of the INS' Verification System (commonly known as SAVE) and allows the determination of the impact of the Immigration Reform and Control Act on the Unemployment Insurance System nationally.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Job Training Partnership Act (JTPA) Indian and Native American Reporting Revisions for Program Year 1995.

OMB Number: 1205–0308.

Frequency: Annual.

Affected Public: Not-for-profit institutions; State, Local or Tribal Government.

Form	Respondents	Average time per respondent
Master Agreement	200	3 minutes.
Narrative	200	22 hours.
ETA 8600	200	17 hours 25 minutes.
ETA 8601	200	16 hours 4 minutes.
ETA 8600 (summer)	130	15 hours.
ETA 8601 (summer)	130	15 hours 50 minutes.
ETA 8602	200	7 hours 45 minutes.
ETA 8603	200	9 hours 12 minutes.
ETA 8604	200	19 hours 48 minutes.
Reading Level Test	10	3 hours 19 minutes.

Total Burden Hours: 38,032.

Description: These forms are used to manage the national programs authorized under Section 401 of the Job Training Partnership Act. These documents are the principal sources of program plans and performance data. They form the basis for the award of funds, Federal oversight and reports to Congress.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Standardized Program Information Reporting for JTPA Title II and III.

OMB Number: 1205–0321.

Frequency: Annually.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 330.

Estimated Time per Respondent: 23 hours.

Total Burden Hours: 439,365.

Description: Selected standardized information pertaining to participants in the Job Training Partnership Act Titles II and III programs will be collected and reported for purpose of general program oversight/evaluation and performance assessment from State governments.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Ventilation System Plan.

OMB Number: 1219–0016.

Frequency: Annually.

Affected Public: Business or other for-profit.

Number of Respondents: 400.

Estimated Time Per Respondent: 24 hours.

Total Burden Hours: 9,600.

Description: Operators of underground metal and nonmetal mines

are required to prepare written plans of the ventilation system of their mines and to update the plans annually. The information is used to ensure that each operator routinely plans, reviews, and updates the mine's ventilation system; to ensure the availability of accurate and current ventilation information; and to provide the Mine Safety and Health Administration with an opportunity to alert the mine operator to potential hazards.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Slope and Shaft Sinking Plans.

OMB Number: 1219–0019.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 25.

Estimated Time Per Respondent: 40 hours.

Total Burden Hours: 1,000.

Description: Requires coal mine operators to submit to the Mine Safety and Health Administration for approval a plan that will provide for the safety and workmen in each slope or shaft that is commenced or extended.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Representative of Miners.

OMB Number: 1219–0042.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 207.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 207.

Description: The Federal Mine Safety and Health Act of 1977 requires the Secretary of Labor to exercise many of the duties under the Act in cooperation with miners' representatives. The Act also establishes miners' rights which must be exercised through a representative. Title 30 CFR 40 contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners.

Type of Review: Reinstatement.

Agency: Mine Safety and Health Administration.

Title: Records of Results of Examinations of Self-Rescuers.

OMB Number: 1219–0044.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 483.

Estimated Time per Respondent: 1 hour 4 minutes.

Total Burden Hours: 512.

Description: Requires underground coal mine operators to keep records of the corrective actions taken as a result of required examinations of self-rescue devices. The information is used to ensure that the devices are in operable and usable condition in case of an emergency.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Respirator Program Records.

OMB Number: 1219–0048.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 11,800.

Estimated Time per Respondent: 17 minutes.

Total Burden Hours: 3,386.

Description: Respirator programs are required to be established when engineering controls fail to reduce airborne contaminants to permissible levels. Mine operators are also required to conduct fit testing of respirator devices and to keep records of the results. Fit-testing records are used to ensure that a respirator worn by an individual is in fact the one for which the individual received a tight fit. Emergency-use respirators are required to be inspected monthly to assure that they are in satisfactory working condition.

Type of Review: Reinstatement.

Agency: Mine Safety and Health Administration.

Title: Permissible Equipment Testing.

OMB Number: 1219–0066.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Reg section	Respondent applications	Average time per response (hours)	Total
30 CFR 15	2	5	10
30 CFR 18	449	40	17,960
	*41	20	820
30 CFR 19	3	18	54
30 CFR 20	4	10	40
30 CFR 21	0	0	0
30 CFR 22	4	14	56
30 CFR 23	5	17	85
30 CFR 25	0	0	0
30 CFR 26	0	0	0
30 CFR 27	1	20	20
30 CFR 28	2	19	38
30 CFR 29	0	0	0
30 CFR 32	*3	34	102
30 CFR 33	7	8	56
30 CFR 35	6	43	258
Snaps and Saras	1,028	2	2,056

* Simplified.

Total Burden Hours: 20,785.

Description: Contains procedures by which manufacturers of mining equipment and components, material, instruments, and explosives may apply for, and have their products approved as permissible for use in mines.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Rock Burst Control Plan.

OMB Number: 1219–0097.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 2.

Estimated Time Per Respondent: 12 hours.

Total Burden Hours: 24.

Description: Requires metal and nonmetal mine operators to develop a rock burst control plan within 90 days after a rock burst has been experienced. Plans are required to be made available to the Mine Safety and Health Administration inspectors and are used by the mine operator for work assignments to assure miner safety and to schedule correction work..

Patrick Skees,

Acting Director IRM Policy.

[FR Doc. 95–16622 Filed 7–5–95; 8:45 am]

BILLING CODE 4510–26–P

Job Training Partnership Training Act Indian and Native American Reporting Revisions for Program Year 1995

AGENCY: Office of the Secretary, Labor.

SUMMARY: The Director, Office of Information Resources Management Policy, invites comments on the following proposed expedited review information collection request as required by the Paperwork Reduction Act of 1980, as amended.

DATES: This expedited review is being requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget has been requested by August 31, 1995.

ADDRESSES: Written comments should be addressed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, 725 17th St., N.W., Room 10235, New Executive Office Building, Wash., DC 20503. Requests for copies of the proposed information collection request should be addressed to Theresa M. O'Malley, Department of Labor, 200 Constitution Ave., N.W., Room N–1301, Wash., DC 20210.

FOR FURTHER INFORMATION CONTACT: Theresa M. O'Malley, (202) 219–5095. Individuals who use a telecommunications device for the deaf (TTY/TDY) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with the agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management Policy, publishes this notice simultaneously with the submission of this request to OMB. This notice contains the following information:

Type of Review: Expedited.

Title: JTPA Indian and Native American Reporting Revisions for Program Year 1995.

Frequency of Response: Annually.

Affected Public: Not-for-profit; State, Local or Tribal Government.

Number of Respondents: 1,920.

Estimated Time per Response: ranges from 3 mins.–22 hours.

Total Annual Burden Hours: 38,032.

Respondents Obligation to Reply: Mandatory.

Description: In accordance with our partnership with the Native American and Indian community, and in consultation with the statutorily established Native American Employment and Training Council, the Department has agreed not to proceed with the implementation of the Standard Participant Information Reporting (SPIR) for Program Year 1995. For at least one more Program Year, the Department will continue to pilot the SPIR approach with selected JTPA, Section 401 grantees and to share feedback with the Council and the grantee community at large. ETA will revisit the possible implementation of the SPIR for Program Year 1996 in partnership with the Indian and Native American community.

In the interim, the streamlining of the current reporting forms is consistent with transition to the SPIR approach. The Form 8604 (Annual Status Report) is being modified to eliminate certain elements consistent with the impact of the JTPA amendments, and to consolidate and clarify others based on the experience and advice of the Council and the grantee community. The Form 8603 (Program Status Summary) and Form 8601 (Program Planning Summary) have been modified slightly to be consistent with the changes in Form 8604. The Form 8600 (Budget Information Summary) and Form 8602 (Financial Status Report) have only been changed to reflect the amendments.

Together these forms will be used to manage the national programs authorized under Section 401 of the JTPA. These documents are the principal sources of program plans and performance data. They form the basis for the aware of funds, Federal oversight and reports to Congress.

Signed at Washington, D.C. this 30th day of June 1995.

Cheryl A. Robinson,

Acting Departmental Clearance Officer.

[FR Doc. 95–16623 Filed 7–5–95; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Keystone Coal Mining Corporation

[Docket No. M–95–86–C]

Keystone Coal Mining Corporation, 655 Church Street, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.380(d)(3) (escapeways; bituminous and lignite mines) to its Emilie No. 1 Mine (I.D. No. 36–00821) located in Armstrong County, Pennsylvania. The petitioner proposes to continue utilizing the passable escapeway as it presently exists for approximately 8 to 9 feet as an alternative to enhancing the height of the overcast area due to geologic conditions of that area of the mine. The petitioner states that the main intake escapeway (E1) for the Emilie No. 1 Mine is directed out of the Emilie No. 2 Track Slope; that petitioner is unable to maintain the clearance to the height of the coal seam at one corner of the intake overcast located three crosscuts inby the slope bottom due to geologic conditions; that the clearance at the immediate corner of the overcast is 24 to 29 inches in height and that moving away from the immediate corner towards the center of the overcast and down the ramp, the height increases to 42 inches, which is the height of the coal seam; and that the total linear distance is 9 feet where the travelway is less than the seam height. The petitioner also states that application of the standard would result in a diminution of safety to the miners because a much greater distance would have to be traveled along a different escape route. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Keystone Coal Mining Corporation

[Docket No. M–95–87–C]

Keystone Coal Mining Corporation, 655 Church Street, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR

75.380(d)(4) (escapeways; bituminous and lignite mines) to its Emilie No. 1 Mine (I.D. No. 36–00821) located in Armstrong County, Pennsylvania. The petitioner proposes to continue utilizing its secondary/alternate escapeway as it presently exists. The petitioner states that the secondary/alternate escapeway for the Emilie No. 1 Mine is directed through to the East Mains Section cut through to the Emilie No. 2 Mine's main line track entry, along the belt and track, and up the belt slope to the surface; that two features in and about the slope area of the escapeway are less than the requirements of the standard; that the distance from the sidewall of the slope to the edge of the belt is 54 inches wide and the two airlock doors in the slope are 46 inches wide. The petitioner states that application of the standard would result in a diminution of safety to the miners because a much greater distance would have to be traveled along a different escape route. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Canterbury Coal Company

[Docket No. M–95–88–C]

Canterbury Coal Company, R.D. 1, Box 119, Avonmore, Pennsylvania 15618 has filed a petition to modify the application of 30 CFR 75.380(d)(3) (escapeways; bituminous and lignite mines) to its David Mine (I.D. No. 36–00813) located in Armstrong County, Pennsylvania. The petitioner requests a modification of the standard to allow passage of the alternate or secondary escapeway through an area where crossing over two overcasts limits the passage height to less than 5 feet. The petitioner states that the two overcasts were installed in the mine prior to 1971; that the secondary or alternate escapeway is routed over the overcasts which isolate it from the belt and track entries; that the height of the secondary escapeway over the overcasts is 42 inches for 12 feet, and 43 inches for 13 feet at the track and belt overcasts; and that all personnel entering the mine are instructed on escapeway and escape procedures. The petitioner asserts that the proposed alternative method would provide the safest and shortest practical means of escape from the active mining section.

4. R. S. Coal Company

[Docket No. M–95–89–C]

R. S. Coal Company, P.O. Box 526, Trevorton, Pennsylvania 17881 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Slope (I.D. No. 36–07108) located in Northumberland County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices but instead use an increased rope strength/safety factor and secondary safety rope connection in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Primrose Coal Company

[Docket No. M–95–90–C]

Primrose Coal Company, 214 Vaux Avenue, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1002–1 (location of other electric equipment; requirements for permissibility) to its Primrose Slope (I.D. No. 36–04629) located in Schuylkill County, Pennsylvania. The petitioner proposes to use nonpermissible electric equipment within 150 feet of the pillar line and to suspend equipment operation anytime methane concentration at the equipment reaches 0.5 percent, either during operation or during a pre-shift examination. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. R & D Coal Company

[Docket No. M–95–91–C]

R & D Coal Company, 214 Vaux Avenue, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1002–1 (location of other electric equipment; requirements for permissibility) to its Buck Mountain Slope (I.D. No. 36–02053) located in Schuylkill County, Pennsylvania. The petitioner proposes to use nonpermissible electric equipment within 150 feet of the pillar line and to suspend equipment operation anytime methane concentration at the equipment reaches 0.5 percent, either during operation or during a pre-shift examination. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Cobre Mining Company

[Docket No. M–95–09–M]

Cobre Mining Company, 303 Fierro Road, PO Box 424, Hanover, New Mexico 88041 has filed a petition to modify the application of 30 CFR 57.11055 (inclined escapeways) to its Continental Mine (I.D. No. 29–00233) located in Grant County, New Mexico. The petitioner proposes to modify the use of its present underground secondary escape route. The petitioner proposes to install two vent or fire doors on the 1300 level at the No. 2 shaft, one on each side of the shaft in the drifts leading to and from the shaft; to have a rest or refuge station equipped with telephone and audio, compressed air and water lines, suitable hand tools, and stopping materials located between the air doors; to install a ladderway in the No. 2 shaft cage compartments that would extend from the 1300 level up to the 400 level station, a total distance of 900 vertical feet; to establish rest areas on the 1000, 800, and 600 foot levels; to have a walkway approximately 450 feet from the 400 level station that extends to the west wall of the open pit and daylight and the 6–13 stope connected to the east end of the west wall of the pit; to have the 99 stope connected to the bottom level of the pit and if any changes are detected in mine ventilation, the emergency escape would be carried out entirely in fresh air. The petitioner also proposes to retimber all refuge stations, level stations, rest areas or walkways, or install ground support when necessary; to remove all scrap from the station area; to seal and lock all walkways (drifts) leading from the rest stations into any unnecessary or abandoned stope areas. After the ladderway from 1300 to 400 level is completed in the No. 2 shaft, the lagging would be removed from No. 53 for 316 feet and a bulkhead would be installed, a concrete and rebar plug poured to form a bearing set with a chute type drawpoint, the No. 2 shaft would be filled with clean gravel from the concrete plug to the surface, the manway would be constructed with 6 by 8 inch stringers nailed in from the end plate to the center dividers, and 3 by 5 inch lagging would be nailed down on the stringers to the outside of the shaft guides forming a 48 by 51 inch landing with at least a 25 by 25 inch ladder opening; at each landing 2 by 12 inch laggings would be installed from guide to guide to form a horizontal partition, three laggings would be nailed on a 1 foot space to a height of 5 feet, a chain link wire would be installed between the landings to further close the manway, ladders would be installed in 24 foot sections that would be inclined from each landing to the center divider above and bolted to a 7 foot vertical center divider for additional handholds. The petitioner states that no electrical power would be near the

manway; that escaping miners would be in fresh air entirely from all areas on the 1300 level; and that its approximately 3,300 feet from the No. 3 shaft areas down 13–1 drift to the No. 2 shaft station and approximately 4,800 feet from 13–17 drift off 13–5 drift to the No. 2 shaft station by 13–17 drift. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 7, 1995. Copies of these petitions are available for inspection at that address.

Dated: June 29, 1995.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 95–16627 Filed 7–5–95; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (95–051)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (OMB 83–1), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by August 7, 1995. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Donald J. Andreotta, NASA Agency Clearance Officer, Code JT, NASA Headquarters, Washington DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0073), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie B. Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: Small Business and Small Disadvantaged Business Concerns and Related Contract Provisions—NASA FAR Supplement Part 18–19.

OMB Number: 2700–0073.

Type of Request: Extension.

Frequency of Report: Quarterly.

Type of Respondent: Business or other for profit, Not-for-profit institutions.

Number of Respondents: 295.

Responses Per Respondent: 3.

Annual Responses: 885.

Hours Per Response: 16.21.

Annual Burden Hours: 14,346.

Number of Recordkeepers: 0.

Annual Hours Per Recordkeeping: 0.

Annual Recordkeeping Burden Hours: 0.

Total Annual Burden Hours: 14,346.

Abstract-Need/Uses: NASA requires more frequent reporting of small disadvantaged business subcontract awards in order to more effectively manage its goal for small disadvantaged business participation.

Dated: June 29, 1995.

Donald J. Andreotta,

Deputy Director, IRM Division.

[FR Doc. 95–16549 Filed 7–5–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for Design Access: Civiscape

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts requests proposals leading to the award of a Cooperative Agreement for a project titled, ''Design Access: Civiscape.'' The objectives of Civiscape are: (1) To implement and maintain innovative digital forums for the design community and interested audiences in the arts that are accessible by the Internet; (2) To provide the design community and interested audiences in the arts with outstanding working examples of innovative and/or experimental designs for interfaces, navigational systems, information environments, and other integral components of interactive online information systems; (3) To develop software tools specifically for the needs of artists and designers; (4) To provide basic online digital reference and access services; and (5) To develop and implement non-digital forums (a symposium, conference, etc.) that brings together the design community, interested artists, citizens, and technology experts to demonstrate emerging technologies and discuss Civiscape in the context of current issues relating to online interactive communications. Funding by the Endowment is limited to no more than $200,000. Respondents to the Solicitation are requested to indicate the value of any contribution to the program that they are able to offer, such as donations of staff time, space, materials, equipment, indirect costs, or other important elements. Those interested in receiving the Solicitation should reference Program Solicitation PS 95–07 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 95–07 is scheduled for release approximately July 24, 1995 with proposals due on August 24, 1995.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, Room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW., Washington, DC 20506 (202/682–5482).

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 95–16629 Filed 7–5–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72–16, 50–338/339]

Virginia Electric and Power Company; Notice of Consideration of Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing

The Nuclear Regulatory Commission (the NRC) is considering an application dated May 9, 1995, for a materials

license, under the provisions of 10 CFR Part 72, from Virginia Electric and Power Company (the applicant or VEPCO) to possess spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) located in Louisa County, Virginia. If granted the license will authorize the applicant to store spent fuel in a dry storage cask system at the applicant's North Anna Nuclear Power Plant site for Units 1 and 2, (Operating Licenses NPF–4 and 7). Pursuant to the provisions of 10 CFR Part 72, the term of the license for the ISFSI would be twenty (20) years.

Prior to issuance of the requested license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. The issuance of the materials license will not be approved until the NRC has reviewed the application and has concluded that approval of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and Finding of No Significant Impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register**. Pursuant to 10 CFR 2.105 and 2.1107, by August 7, 1995, the applicant may file a request for a hearing; and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license in accordance with the provisions of 10 CFR 2.714. If a request for hearing or petition for leave to intervene is filed by the above date, the NRC or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the NRC may, upon satisfactory completion of all required evaluations, issue the materials license without further prior notice.

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitoner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Board up to 15 days prior to the holding of the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfied these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., by the above date. Where petitioners are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the NRC by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Travers, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia, 23219, General Counsel for the applicant.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this proceeding concerns an application for a license falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of NWPA, the NRC, at the request of any petitioner or any party to the proceeding, must use hybrid hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.'' The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues

found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rule implementing section 134 of the NWPA are found in 10 CFR Part 2, subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors,'' (published at 50 FR 41662, October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, subpart G continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument to held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, subpart G apply.

For further details with respect to this action, see the application dated May 9, 1995, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, D.C. 20555, and at the local public document room at the Special Collections Department, Second Floor Alderman Library, University of Virginia, Charlottesville, Virginia 22903–2498. The Commission's licenses and Safety Evaluation Report, when issued, may be inspected at the above locations.

Dated at Rockville, Maryland, this 28th day of June, 1995.

For the U.S. Nuclear Regulatory Commission.

William D. Travers, Director,

Spend Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–16524 Filed 7–5–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 5–278]

PECO Energy Company; Public Service Electric and Gas Company; Delmarva Power and Light Company; Atlantic City Electric Company; Peach Bottom Atomic Power Station, Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to the PECO Energy Company, et al. (the licensee) for the Peach Bottom Atomic Power Station (PBAPS), Unit 3, located in York County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from 10 CFR Part 50, Appendix J, Section III.D.1.(a). Section III.D.1(a) requires a set of three Type A tests (i.e., Containment Integrated Leak Rate Test (CILRT)) to be performed at approximately equal intervals during each 10-year service period and specifies that the third test of each set shall be conducted when the plant is shut down for the performance of the 10-year inservice inspection (ISI). The request involves a one-time schedular exemption from the requirements of Section III.D.1(a) that would extend the PBAPS, Unit 3 Type A test service period and allow the three Type A tests in the current service period to be performed at intervals that are not approximately equal. Hence, this one-time exemption would allow the third, Unit 3, Type A test to be performed during refueling outage 11, scheduled to begin in September 1997, approximately 70 months after the last Unit 3 test, thereby coinciding with the 10-year plant ISI refueling outage.

The proposed action is in accordance with the licensee's application dated November 21, 1994.

Need for the Proposed Action

The proposed action is required in order to allow the third Type A test to be performed during the eleventh Unit 3 refueling outage scheduled to begin in September 1997, concurrent with the 10-year plant inservice inspections. Without the exemption, the licensee would be required to perform a Type A test during both refueling outage 10, scheduled to begin in September 1995 and refueling outage 11. Performing the Type A test during two consecutive refueling outages would result in increased personnel radiation exposure and increased cost to the licensee. With the exemption, the third Type A test would be performed during the eleventh Unit 3 refueling outage which would thus align the start of the third 10 CFR Part 50, Appendix J, 10-year service period with the start of the third 10-year ISI period.

Environmental Impacts of the Proposed Action

The Commission has completed the evaluation to the action and concludes that this action would not significantly increase the probability or amount of expected primary containment leakage. The performance history of Type A leak tests at PBAPS, Unit 3, demonstrates adequate margin to acceptable leak rate limits. No time-based failure mechanisms were identified that would significantly increase expected leak rates over the proposed extended interval. The three historical Type A test failures at PBAPS, Unit 3, in April 1977, September 1981 and August 1983, were determined to be activity-related failures, which would not be related to an extended test interval. Thus radiological release rates will not differ from those determined previously and would not be expected to result in undetectable leak rates in excess of the values established by 10 CFR Part 50, Appendix J.

Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater than previously determined. The proposed action does not otherwise affect radiological plant effluents or increase occupational radiation exposures. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action does involve features located entirely within the restricted areas as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the action would be to deny the request. Such action would not reduce environmental impacts of plant operation and would result in increased radiation exposure to plant personnel.

Alternate Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Peach Bottom Atomic Power Station, Units 2 and 3, dated April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on June 27, 1995, the staff consulted with the Pennsylvania State official, Stan Maingi, of the Pennsylvania Department of Environmental Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this proposed action, see the licensee's letter dated November 21, 1994, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania.

Dated at Rockville, Maryland, this 29th day of June 1995.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–2, Division of Reactor Projects — I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–16542 Filed 7–5–95; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Safety Research Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

The Nuclear Safety Research Review Committee (NSRRC) will hold its next meeting on July 26–27, 1995. The location of the meeting will be the Severn Room at the Hyatt Regency Hotel. One Bethesda Metro, Bethesda, MD., except for the period from 10 to 11:30 am on July 27, when the meeting location will be the Commission Conference Room in the One White Flint North (OWFN) Building, 11555 Rockville Pike, Rockville, MD.

The meeting will be held in accordance with the requirements of the Federal Advisory Committee Act (FACA) and will be open to public attendance. The NSRRC provides advice to the Director of the Office of Nuclear Regulatory Research (RES) on matters of overall management importance in the direction of the NRC's program of nuclear safety research. The main purposes of this meeting are (a) to review the NRC's overall research program plans and priorities: (b) to deliberate on the reports of the NSRRC Subcommittees on Waste, on Instrumentation and Controls and Human Factors, and on Research in Support of Risk Based Regulation, based on the subcommittees' May 1995 meetings; (c) to brief the Commission on the Committee's views regarding items (a) and (b); and (d) to receive a NRC staff status briefing on steam generator tube integrity issues.

The planned schedule is as follows:

Wednesday, July 26 (Severn Room, HYATT REGENCY HOTEL, BETHESDA)
- 8:00–8:20—Introductory remarks
- 8:20–12:00—Overall research program plans and priorities
- 1:15–4:00—Subcommittee reports
- 4:00–6:00—Committee discussion in preparation for Commission briefing

Thursday, July 27 (Severn Room, HYATT REGENCY HOTEL, BETHESDA, *except 10:00–11:30*)
- 8:00–9:15—Committee discussion in preparation for Commission briefing (continued)
- 10:00–11:30—IN COMMISSION CONFERENCE ROOM, OWFN, ROCKVILLE: Meeting with the Commission
- 1:15–2:45—Status update on steam generator tube integrity issues
- 3:00–5:00—Committee discussion: further deliberation on subcommittee reports; follow-up plans

Participants in parts of the discussions will include representatives of the NRC staff. The discussions on July 26 and the early morning of July 27 will, as needed, include open executive sessions for discussion of plans for the Committee's briefing of the Commission beginning at 10 a.m. on July 27.

Members of the public may file written statements regarding any matter to be discussed at the meeting. Members of the public may also make requests to speak at the meeting, but permission to speak will be determined by the Committee chairperson in accordance with procedures established by the Committee. A verbatim transcription will be made of the NSRRC meeting and a copy of the transcript will be placed in the NRC's Public Document Room in Washington, DC.

Any inquiries regarding this notice, any subsequent changes in the status and schedule of the meeting, the filing or written statements, requests to speak at the meeting, or for the transcript, may be made to the Designated Federal Officer, Mr. George Sege (telephone: 301–415–6593), between 8:15 am and 5:00 pm.

Dated at Rockville, Maryland this 29th day of June, 1995.

For the Nuclear Regulatory Commission

John C. Hoyle,

Acting Federal Advisory Committee, Management Officer.

[FR Doc. 95–16543 Filed 7–5–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–309, 50–285, 50–317, 50–318, 50–336, 50–335; License Nos. DPR–36, DPR–40, DPR–53, DPR–69, DPR–65, DPR–67]

Maine Yankee Atomic Power Company (Maine Yankee); Omaha Public Power District (Fort Calhoun 1); Baltimore Gas and Electric Company (Calvert Cliffs 1 and 2); Northeast Nuclear Energy Company (Millstone 2); Florida Power and Light Company (St. Lucie 1); Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Petition dated May 2, 1995, John F. Doherty requests that the Nuclear Regulatory Commission (NRC) take immediate action to shut down six pressurized-water reactors and inspect the steam generator tubes at those reactors using the Point Plus Probe system.

As the basis for this request, the Petitioner states that an inspection at the Maine Yankee plant using the Point Plus Probe system revealed that the steam generator tubes are on the verge of rupturing. He, therefore, asks that Maine Yankee, along with the other plants he has identified as being manufactured by the same company and of similar operating age, be immediately shut down. The Petitioner also asks that all the steam generator tubes at all the identified plants be inspected immediately.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. It has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken

on this Petition within a reasonable time. By letter dated June 28, 1995, the Director denied the Petitioner's request for immediate shutdown and inspection of the six identified reactors.

A copy of the Petition is available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, Washington, DC.

Dated at Rockville, Maryland this 28th day of June, 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95–16525 Filed 7–5–95; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Railroad Service and Compensation Reports.

(2) *Form(s) submitted:* BA–3a, BA–4.

(3) *OMB Number:* 3220–0008.

(4) *Expiration date of current OMB clearance:* August 31, 1995.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 645.

(8) *Total annual responses:* 1,090.

(9) *Total annual reporting hours:* 50,410.

(10) *Collection description:* Under the Railroad Retirement Act and the Railroad Unemployment Insurance Act, employers are required to report service and compensation for each employee to update Railroad Retirement Board records for payments of benefits.

Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 95–16604 Filed 7–5–95; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21175; No. 811–3288]

Pacific Corinthian Variable Fund

June 29, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANT: Pacific Corinthian Variable Fund.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined in the 1940 Act.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 24, 1995, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notice of the hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549. Applicant, Pacific Corinthian Variable Fund, 700 Newport Drive, Newport Beach, CA 92660, c/o Diane N. Ledger.

FOR FURTHER INFORMATION CONTACT: Kathleen Knisely or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicant's Representations

1. On October 15, 1981, Applicant filed a registration statement under Section 8(b) of the 1940 Act, and filed a Form N–1 to register an indefinite number of shares under the Securities Act of 1933. The Form N–1 registration statement was declared effective on October 19, 1983, and the initial public offering commenced within three months thereafter.

2. At a meeting on July 24, 1994, Applicant's Board of Directors approved an Agreement and Plan of Reorganization between Pacific Select Fund and Applicant (''Agreement and Plan''), and recommended approval by the Applicant's shareholders of the transactions proposed in that Agreement and Plan. More specifically, pursuant to the Agreement and Plan, series of Pacific Select Fund (''Acquiring Series'') would acquire all of the assets of series of Applicant (''Acquired Series'') in exchange for shares of beneficial interest in the respective Acquiring Series and the assumption by the Acquiring Series of certain identified liabilities of the Acquired Series (such transactions shall be referred to herein as ''Reorganizations''). The net asset value of shares issued in connection with the exchange would equal the net asset value of the shares of each Acquired Series then outstanding.

3. As part of the effort to secure shareholder approval of the Agreement and Plan, Pacific Select Fund filed a Form N–14 registration statement with the Commission on July 20, 1994; that Form N–14 registration statement became effective on August 19, 1994. A proxy statement/prospectus was sent to shareholders of the Applicant on or about September 19, 1994.

4. The Reorganizations were approved by the requisite vote of the shareholders of each Acquired Series at a Special Meeting of Shareholders held on October 24, 1994.

5. In connection with the Reorganizations, Pacific Select Fund and Applicant submitted an application for an order of the Commission pursuant to Section 17(b) of the 1940 Act, seeking exemption from Section 17(a) of the 1940 Act to the extent necessary to permit the assets of Applicant to be transferred to and combined with the assets of Pacific Select Fund in exchange for shares of Pacific Select Fund. The order was granted on November 29, 1994.

6. The Agreement and Plan was executed on November 14, 1994. Pursuant to the Agreement and Plan, shares of the respective Acquiring Series were distributed to shareholders of the

respective Acquired Series. As a result of this transaction, each shareholder of an Acquired Series ceased to be a shareholder of the Acquired Series and received that number of full and fractional shares of the respective Acquiring Series having an aggregate net asset value equal to the aggregate net asset value of such shareholder's shares of an Acquired Series as of December 30, 1994.

7. On December 31, 1994, pursuant to the Agreement and Plan, Applicant transferred to the Acquiring Series all of the assets and certain identified liabilities of the Acquired Series, and ceased operations.

8. Other than as described above, during the last 18 months, Applicant has not transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant.

9. Presently, no assets are retained by the Acquired Series, and no other debts or liabilities of the Applicant remain outstanding.

10. The expenses applicable to the transfer of the Applicant's assets, certain accounting, administrative and legal expenses, were borne by the Applicant, Pacific Select Fund, and Pacific Mutual Life Insurance Company (the Applicant's investment adviser), with the Applicant and Pacific Select Fund each bearing no more than one-third of the expenses. No series of either Applicant or Pacific Select Fund bore expenses to the extent that such expenses had a material impact on a series net asset value. For these purposes, an expense was considered material if its impact on the net asset value per share of a series equalled or exceeded $.01 per share.

11. No brokerage commissions were paid in connection with the Reorganizations.

12. Expenses of liquidating, dissolving and dergistering the Applicant will be paid from assets paid by the Applicant to Pacific Select Fund which, pursuant to Agreement and Plan, were designated for such purposes in an amount up to $2000 for each Acquired Series. Any additional costs will be paid by Pacific Mutual Life Insurance Company, not the Applicant or Pacific Select Fund.

13. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

14. Other than the administrative proceeding initiated by the filing of this application, Applicant was not a party to any litigation or administrative proceeding at the time of the filing of this application.

15. Applicant has made all filings under the 1940 Act, including Form N–SAR filings, for each period for which such filings were required.

16. The Applicant, a California corporation, intends to file a Certificate of Dissolution with the State.

For the Commission, by the Division of the Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–16575 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21173; 812–9548]

The Travelers Life and Annuity Company, et al.;

June 29, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Travelers Life and Annuity Company (''TLAC''), The Travelers Fund BD II for Variable Annuities (''Fund BD II'') and any other separate account that TLAC may establish to support certain flexible premium deferred variable annuity contracts and certificates issued by TLAC (''Other Accounts'' or together with Fund BD II, the ''Accounts''), and Tower Square Securities, Inc. (''TSSI'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicants from sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit them to deduct a mortality and expense risk charge from the assets of the Accounts, in connection with certain flexible premium deferred variable annuity contracts.

FILING DATES: The application was filed on March 23, 1995, and amended on June 13, 1995 and June 27, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 24, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicants, One Tower Square, Hartford, Connecticut 06183.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. TLAC is a stock life insurance company organized in Connecticut and licensed to do business in all states except Alabama, Hawaii, Kansas, Maine, New Hampshire, New Jersey, North Carolina, Tennessee, Texas, Wyoming, and New York, and currently seeks to obtain licensure in the remaining states, except New York. TLAC is a wholly owned subsidiary of The Travelers Insurance Company, which is an indirect wholly owned subsidiary of Travelers Group Inc.

2. Fund BD II is a separate investment account established by TLAC to fund certain individual and group flexible premium deferred variable annuity contracts and certificates to be issued by TLAC (''Current Contracts''). In the future, TLAC may issue other flexible premium deferred variable annuity contracts and certificates that are materially similar to the Current Contracts that are issued through Fund BD II or the Other Accounts (the ''Future Contracts'', together with the Current Contracts, the ''Contracts'').

3. Fund BD II has filed a registration statement as a unit investment trust under the Act. Units of interest in Fund BD II under the Contracts will be registered under the Securities Act of 1933. Fund BD II is currently divided into twelve subaccounts. Each subaccount will invest in the shares of a portfolio of the Smith Barney/ Travelers Series Fund, Inc., and one of the portfolios of the Smith Barney Series Fund, both open-end series-type management investment companies registered under the Act. In the future, TLAC may create or eliminate subaccounts.

4. TSSI, an affiliate of TLAC and an indirect wholly owned subsidiary of

The Travelers Inc., will serve as the distributor and principal underwriter of the Contracts. TSSI is registered under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc.

5. The Contracts would provide retirement payments and other benefits to persons qualified for Federal income tax advantages and to those who do not qualify for such tax advantages. Annuity payments would be made on a fixed or variable basis, and the Contracts have several annuity and income options. The Contracts require an initial purchase payment of $5,000. The minimum additional payment is $500. Contract owners may allocate purchase payments to one or more subaccounts and to the fixed account.

6. The Contracts provide for two death benefit options, the standard death benefit and the enhanced death benefit. The standard death benefit varies, depending on the age of the annuitant or Contract owner and the maturity date. If the annuitant or Contract owner dies before age 75 and before the maturity date, the standard death benefit is equal to the greater of the following, less any applicable premium tax or surrenders not previously deducted: (a) The Contract value, (b) the total purchase payments under the Contract, and (c) the Contract value on the fifth Contract year anniversary immediately preceding TLAC's receipt of proof of death. If the annuitant or Contract owner dies on or after age 75, but before age 85 and before the maturity date, TLAC will pay as a standard death benefit the greater of the following, less any applicable premium tax or surrenders not previously deducted: (a) The Contract value, (b) the total purchase payments under the Contract, and (c) the Contract value on the latest fifth Contract year anniversary occurring on or before the deceased's 75th birthday. If the annuitant or Contract owner dies on or after age 85 and before the maturity date, TLAC will pay as a standard death benefit the Contract value, less any applicable premium tax and surrenders not previously deducted.

7. Under the enhanced death benefit, if the annuitant or Contract owner dies before age 75 and before the maturity date, TLAC will pay the greater of (a) the guaranteed death benefit, or (b) the Contract value less any applicable premium tax and surrenders not previously deducted. The guaranteed death benefit equals the purchase payments made to the Contract (minus surrenders and applicable premium taxes) increased by 5% on every Contract date anniversary up to the Contract date anniversary following the deceased's 75th birthday, with a maximum guaranteed death benefit of 200% of purchase payments minus surrenders and applicable premium taxes. If the annuitant or Contract owner dies on or after age 75 but before age 85 and before the maturity date, TLAC will pay as an enhanced death benefit the greater of (a) the guaranteed death benefit as of the deceased's 75th birthday, plus additional purchase payments, minus surrenders and minus applicable premium tax or (b) the Contract value less any applicable premium tax or surrenders not previously deducted. If the annuitant or Contract owner dies on or after age 85 but before the maturity date, TLAC will pay as an enhanced death benefit the Contract value, less any applicable premium tax and surrenders not previously deducted.

8. Prior to the maturity date, the Contract owner may transfer all or part of the Contract value between subaccounts. TLAC currently does not charge or restrict the amount or frequency of transfers, but it reserves the right to limit the number of transfers to no more than one in any six month period.

9. TLAC will deduct an annual Contract administration charge of $30 from the Contract value once each year. No Contract administration charge is payable after an annuity payout has begun, at the death of the annuitant or Contract owner, nor if the Contract value is greater than or equal to $40,000 at the date of assessment of the charge. TLAC also will deduct a daily asset-based administration charge at an annual rate of .15%.

10. Applicants represent that the annual administration fee and the asset-based administration charge will not increase during the life of the Contracts. In addition, applicants represent that the charges represent reimbursement for the actual administration costs expected to be incurred over the life of the Contracts. Applicants will rely on rule 26a–1 to deduct this charge and certain other charges under the Contract.[1]

11. Applicants will charge a contingent deferred sales charge (''surrender charge'') upon certain withdrawals. The surrender charge is 6% of a purchase payment in the first, second, and third years following the payment, 3% in the fourth year, 2% in the fifth year, and 1% in the sixth year following the payment. After the first Contract year, Contract owners may surrender up to 15% of their Contract value as of the first valuation date of a Contract year without incurring a surrender charge (the ''free withdrawal amount''). The free withdrawal allowance applies to partial and full surrenders except full surrenders where the Contract owner transfers the Contract value to annuity contracts issued by other financial institutions.

12. There is no surrender charge on Contract earnings, which equal the Contract value, minus the sum of all purchase payments received that have not been previously surrendered, minus the amount of the 15% free withdrawal, if applicable. In determining the amount of any surrender charge, surrenders will be deemed to be taken first from any free withdrawal amount, next from purchase payments on a first-in, first-out basis, and then from Contract earnings in excess of any 15% free withdrawal amount.

13. TLAC proposes to deduct a daily mortality and expense risk charge of 1.02% for Contracts providing the standard death benefit. Of this amount, approximately .765% is for mortality risk and .255% is for expense risk. For Contracts providing the enhanced death benefit, TLAC proposes to deduct a daily mortality and expense risk charge of 1.30%. Of that amount, approximately 1.04% is for mortality risk and .26% is for expense risk.

14. TLAC assumes the mortality risk that annuitants may live for a longer period than estimated when the guarantees in the Contract were established, thus requiring TLAC to pay out more in annuity income than it had planned. TLAC also assumes a mortality risk in that it may be obligated to pay a death benefit in excess of the Contract value. Because the enhanced death benefit provides a higher level of benefits than the standard death benefit, the mortality risks for the enhanced death benefit exceed those for the standard death benefit. The expense risk assumed by TLAC is that the other fees may be insufficient to cover the actual cost of administering the Contracts.

15. If the mortality and expense risk charge is insufficient to cover the actual cost of the risks, TLAC will bear the shortfall. Conversely, if the charge is more than sufficient, the excess will be profit to TLAC and will be available for any proper corporate purpose, including payment of distribution expenses.

16. If premium taxes are applicable to a Contract, they will be deducted when the Contract is purchased, upon surrender of the Contract, when

[1] Rule 26a–1 allows for payment of a fee for bookkeeping and other administrative expenses provided that the fee is no greater than the cost of the services provided, without profit.

retirement payments begin, or upon payment of a death benefit.

Applicants' Legal Analysis

1. Applicants request an exemption pursuant to section 6(c) from sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction from Fund BD II and Other Accounts of the Mortality and Expense Risk Charge. Sections 26(a)(2)(C) and 27(c)(2) of the Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

2. Section 6(c) of the Act authorizes the Commission to exempt any person from any provision of the Act or any rule or regulation thereunder, if and to the extend that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants also request relief with respect to Future Contracts that may be funded by Fund BD II and Other Accounts. Applicants represent that the terms of the relief requested with respect to any Future Contracts are consistent with the standards of section 6(c) of the Act. Without the requested relief, applicants represent that they would have to request and obtain exemptive relief for Future Contracts and any Other Account. Applicants represent that these additional requests for exemptive relief would present no issues under the Act not already addressed in this application, and that investors would not receive any benefits or additional protections thereby.

4. Applicants represent that the requested relief is appropriate in the public interest, because it would promote competitiveness in the variable annuity contract market by eliminating the need for applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of resources. The delay and expense involved in repeatedly seeking exemptive relief would reduce applicants' ability to effectively take advantage of business opportunities as they arise.

5. Applicants represent that the 1.02% mortality and expense risk charge for Contracts providing the standard death benefit is reasonable in relation to the risks assumed by TLAC under the Contracts and is within the range of industry practice for comparable annuity contracts. This representation is based on an analysis of publicly available information regarding similar contracts of other companies, taking into consideration such features as the charge levels, the benefits provided, and investment options under the contracts. TLAC will maintain at its home office, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed and the methodology and results of applicants' comparative review.

6. Applicants represent that the mortality and expense risk charge of 1.30% for Contracts providing the enhanced death benefit is reasonable in relation to the risks assumed by TLAC under the Contracts. Based on its analysis, TLAC determined that an additional mortality risk charge of .28% was a reasonable charge for the enhanced death benefit. TLAC will maintain at its home office, and make available to the SEC upon request, a memorandum setting forth in detail the methodology used in applicants review.

7. Applicants acknowledge that distribution expenses may in part be financed by profits derived from the mortality and expense risk charges. TLAC has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit Fund BD II and investors in the Contracts. TLAC will maintain and make available to the Commission upon request a memorandum at its home office setting forth the basis of such conclusion.

8. The Accounts will invest in a management investment company that has adopted a plan pursuant to rule 12b–1 under the Act only if that company has undertaken to have such plan formulated and approved by its board of directors, a majority of whom are not ''interested persons'' of the company within the meaning of section 2(a) (19) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–16567 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21174; 812–9132]

Harris & Harris Group, Inc.; Notice of Application

June 29, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Harris & Harris Group, Inc.

RELEVANT ACT SECTIONS: Order requested pursuant to sections 6(c) and 61(a) granting an exemption from sections 18(d), 23(b), 61(a)(3)(B), and 61(b).

SUMMARY OF APPLICATION: Applicant is a closed-end registered investment company that intends to elect business development company (''BDC'') status under the Act. Before becoming a registered investment company, applicant issued warrants that currently are held by two of its officers (the ''Warrants'') and issued stock options to certain officers and non-employee directors (the ''Options''). Upon applicant's election of BDC status, the requested order would permit the Warrants and Options to remain exercisable pursuant to their terms as if they had been issued pursuant to an executive compensation plan conforming to section 61(a)(3)(B) of the Act.

FILING DATES: The application was filed on July 29, 1994 and amended on November 3, 1994 and June 29, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 24, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, One Rockefeller Plaza, New York, NY 10020.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. In 1981, applicant was incorporated under the laws of New York. In 1982, applicant first registered securities under the Securities Act of 1933. Also in 1982, applicant began filing periodic reports under the Securities Exchange Act of 1934. From its inception to 1984, applicant was primarily engaged in the breeding and syndication of thoroughbred horses. In 1985, applicant began developing its financial and consulting services and by November 1986 had no operations pertaining to the thoroughbred industry.

2. On September 25, 1985, applicant acquired a minority interest in a subsidiary by exchanging applicant's common stock and issuing Warrants to purchase common stock of applicant. On March 26, 1986, C. Richard Childress and Charles E. Harris, officers of applicant, purchased 149,965 and 335,657 of these Warrants (then due to expire in September 1989), respectively, from the holders of the Warrants in a negotiated transaction for cash. The exercise price of the Warrants was floating with the minimum exercise price equal to $1.24 per share and the maximum exercise price equal to $2.06 per share.

3. On August 3, 1989, applicant's shareholders approved modifications to the terms of the Warrants. The modifications decreased the number of shares subject to Mr. Childress's and Mr. Harris's Warrants to 106,158 and 237,605 shares, respectively, extended the expiration date to September 1999, and changed the exercise price to a flat $2.06 per share. Currently, the shares subject to the Warrants constitute approximately 3.34% of applicant's outstanding voting securities.

4. Also on August 3, 1989, applicant's shareholders approved a proposal by the Board of Directors to institute applicant's Long-Term Incentive Compensation Plan (the ''Plan''). The Plan provides for the grant of stock-based awards, including incentive stock options and non-qualified options to officers, directors, and employees, up to a maximum of 1,200,000 shares of applicant's common stock.

5. On July 31, 1992, applicant registered as a closed-end, non-diversified, investment company under the Act. Applicant was internally managed and its primary investment objective was long-term growth through capital appreciation.

6. On April 20, 1994, the Board determined that it would be in the best interests of the shareholders to elect to be regulated as a BDC under sections 55 through 65 of the Act.[1] Also on that date, in anticipation of electing BDC status, the Board adopted amendments to the Plan in order to increase the reserved shares and to otherwise conform the Plan to the requirements of section 61 of the Act (the ''Amended Plan''). On June 30, 1994, applicant's shareholders approved the Amended Plan, with the continued existence of the outstanding Warrants and Options, and applicant's conversion to BDC status.

7. As of May 26, 1995, applicant and 10,304,542 shares of outstanding common stock and outstanding Options written on 531,349 shares of common stock. All outstanding Options are held by officers (191,349 shares) or non-employee directors (350,000 shares). The shares subject to the Options constitute approximately 5.16% of applicant's outstanding voting securities.

8. The Options expire 10 years from their date of issuance, except 173,349 Options issued to Mr. Harris that expire only five years after their issuance. All of the Options were immediately exercisable at the time of issuance, except 8,000 Options issued to Rachel Pernia, an officer, that vest over a five year period. Of those 8,000 Options, 4,800 Options currently are exercisable and the remaining 3,200 Options vest over the next two years.

9. All Warrant and Option holders have executed an undertaking stating that the Warrants and Options are deemed to have been issued pursuant to the Amended Plan and are governed by the terms of the Amended Plan in accordance with section 61(a)(3)(B) of the Act.

10. Applicant's non-employee directors hold quarterly meetings, set general policy, review with management proposed and current investment ideas and prospects, and either approve or disapprove the expenditures of applicant's assets in such ventures. The Board expects the non-employee directors to continue to function in the same manner after election of BDC status. Applicant's non-employee directors receive nominal cash compensation and benefits as salaries for their services.

Applicant's Legal Analysis

1. Applicant states that due to the outstanding Warrants and Options, its capital structure did not comply with section 18 at the time of its registration as an investment company.[2] A company whose capital structure does not comply with section 18 may register, however, as an investment company without changing its capital structure.[3]

2. Section 61(b) requires that a BDC shall comply with the provisions of section 61 at the time it becomes subject to sections 55 through 65, as if it were issuing a security of each class which it has outstanding at such time. Thus, absent exemptive relief, applicant cannot have a non-conforming capital structure at the time it elects BDC status.

3. Applicant requests an order under sections 6(c) and 61(a) exempting it from the provisions of sections 18(d), 23(b), 61(a)(3)(B), and 61(b) of the Act. Upon Applicant's election of BDC status, the requested order would permit the Warrants, currently held by two executive officers, and the Options, currently held by officers and non-employee directors, to remain exercisable pursuant to their terms as if they had been issued pursuant to an executive compensation plan under section 61(a)(3)(B) of the Act.

4. Section 61(a)(3)(B) states that a BDC may issue to its directors, officers, employees, and general partners, warrants, options, and rights to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) Such warrants, options, and rights, expire by their terms within ten years, have an exercise price that is not lees than the current market value of the underlying securities at the date of issuance, and are not transferable except for dispositions by gift, will or intestacy; (b) the proposal to issue such warrants, options, and rights is authorized by the BDC's shareholders; (c) no investment adviser of the BDC receives any compensation described in section

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) and makes available significant managerial assistance with respect to the issuers of such securities. Such issuers are small, nascent companies whose securities typically are illiquid. Certain of the regulatory restrictions of the Act are relaxed for BDCs.

[2] Section 18(a) limits the ability of a registered, closed-end investment company to issue senior securities, and section 18(d) prohibits a registered, closed-end investment company from issuing warrants unless they expire within 120 days of issuance.

[3] Although section 18 clearly reflects Congressional concern with the dilutive effect on an investment company's common stock of senior securities in general, and long-term warrants in particular, the SEC staff has taken the position that the statute only prohibits an investment company from issuing certain securities concurrent with or subsequent to its registration. *See Surfcastle* (pub. avail. Mar. 14, 1988); *The South America Fund N.V.*, (pub. avail. Sept. 2, 1993).

205(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of that section; and (d) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act. In addition, Commission approval is required if warrants, options, and rights are to be issued to directors who are not officers or employees of the BDC.

5. The Warrants and Options expire by their terms within ten years and their issuance was approved by shareholders. Applicant is internally managed and does not have a profit-sharing plan. The Options are not transferable except for dispositions by gift, will or intestacy. While the Warrants are transferable, each Warrant holder has executed an undertaking agreeing that the Warrants will not be transferred except for dispositions by gift, will or intestacy.

6. Applicant requests relief from section 61(b) to permit the Warrants and Options to remain outstanding at their current exercise prices after applicant elects BDC status. Applicant states that at the time the Warrants and Options were granted, applicant was not subject to the Act and did not expect to become subject to the Act. Applicant asserts that Congress intended section 61(b) to require that a company have an appropriate capital structure if it sought to take advantage of the more liberal provisions of the Act applicable to BDCs. Congress stated that ''a highly leveraged company'' could not elect to be subject to sections 55 through 65 until it had a capital structure that conformed to the leverage limitations established by section 18. Applicant states that it does not have any leverage because it has not issued any debt securities. Thus, applicant asserts that it does not fall within the category of ''a highly leveraged company'' that congress sought to cover and therefore should not be required to cancel the Warrants and Options and reissue them with current market prices when it elects BDC status.

7. Section 18(d) of the Act makes it unlawful for any registered management investment company to issue any warrant or right to subscribe to or purchase a security of which such company is the issuer, except in the form of warrants or rights to subscribe expiring not later than 120 days after their issuance and issued exclusively to a class or classes of such company's security holders. Section 61(a) makes section 18(d) applicable to BDCs, subject to certain modifications not applicable here. Thus, applicant requests exemptive relief from section 18(d) because the Warrants expire more than 120 days after their issuance.

8. Section 23(b) states that no registered closed-end investment company shall sell any common stock of which it is the issuer at a price below the current net asset value of such stock. Section 63 makes section 23(b) applicable to BDCs, subject to certain exceptions. Section 63(3) provides that a BDC may sell any common stock of which it is the issuer at a price below the current net asset value of such stock upon the exercise of any warrant, option, or right issued in accordance with section 61(a)(3). Applicant contends that since the relief sought hereby would treat the Warrants and Options as if they had been issued pursuant to an executive compensation plan under section 61(a)(3)(B), the Warrants and Options should be excluded from section 23(b) by reason of section 63(3).

9. Section 61(a)(3)(B)(iv) states that the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 25% of the outstanding voting securities of the BDC, except that if the amount resulting from the exercise of outstanding warrants, options, and rights issued pursuant to any executive compensation plan meeting the requirements of section 61(a)(3)(B) would exceed 15% of the outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 20% of the outstanding voting securities. Applicant states that it meets the requirements of section 61(a)(3)(B)(iv). As of May 26, 1995, the aggregate amount of applicant's voting securities that would result from the exercise of all options issued or issuable under the Amended Plan and the exercise of all outstanding Warrants would be 1,543,763 shares, or approximately 14.98%, of the 10,304,542 shares of applicant's common stock outstanding. Applicant has no other options or rights outstanding other than those granted to its officers and non-employee directors as part of the Amended Plan and no other warrants outstanding other than those granted to Mr. Childress and Mr. Harris.

10. Applicant believes that its proposal addresses the major concerns of the Small Business Investment Incentive Act of 1980 (''SBIIA''). The SBIIA established BDCs and provided an alternative system of regulation for such companies that is modelled on, but less restrictive than that applicable to, registered closed-end investment companies. Applicant asserts that it would be unfair to the holders of the Warrants or Options to ask them to exercise early. Premature exercise deprives the Warrant or Option holder of an element of value. Applicant contends that early exercise of the Warrants and Options could have adverse consequences on applicant's shareholders. First, nearly fifty percent of the shares received on exercise might have to be sold promptly in the market to raise cash and pay taxes due on exercise. Given the relatively low levels of trading volume in applicant's stock, such sales could have an adverse effect on the market prices of applicant's stock. Second, requiring early exercise would increase the pool of outstanding shares thereby increasing the number of shares available for grant under employee stock option plans and the potential dilution to shareholders pursuant these plans. As of May 26, 1995, applicant's net asset value was $3.52. Applicant asserts that if all the Warrants and Options (875,112 shares, collectively) were exercised, the pro-forma net asset value would equal $3.41, a dilution of $0.11 per share, or 3.13%.

11. Applicant further asserts that because the Warrants and Options are currently ''in the money'' and exercisable, failure to obtain the requested exemptive order would not reduce the potential dilution to shareholders. Because employee and director Warrants and Options do not adversely affect cash flow, applicant contends that they are a more favorable form of compensation. Specifically, because applicant is able to continue investing the cash it would otherwise have been required to spend on employee and director cash compensation programs during the Option period, applicant believes it will be able to produce higher returns for shareholders that if it must increase the cash compensation of its directors.

12. In addition, applicant does not seek relief to permit future issuances of options to non-employee directors pursuant to the Amended Plan. Thus, applicant contends that because the Options already issued to non-employee directors have been approved by both applicant's shareholders and directors the risks of management self-dealing, embezzlement, and abuse of trust that the Act is designed to prevent are significantly reduced.

13. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public

interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicant submits that its request satisfies this standard, does not involve any overreaching, and is fair and reasonable.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–16577 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35913; File No. SR–Amex–95–22]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Entry of Market-at-the-Close Orders Through AMOS

June 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 1995, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 109, Commentary .02, to correct an error in SR–Amex–95–09[3] regarding entry of market-at-the-close (''MOC'') orders[4] through the Post Execution Reporting (''PER'') or Amex Options Switching (''AMOS'') systems.[5] The text of the proposed rule change is as follows:

[new text is italicized; deleted text is bracketed]:

Rule 109

* * * * *

Commentary

* * * * *

.02 Members entering market-at-the-close orders through the PER [or AMOS] system[s] must do so no later than 3:50 p.m. The foregoing shall not limit or restrict the entry of market-at-the-close orders (or their cancellation) other than via such system[s].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission recently approved an amendment to Exchange Rule 109, Commentary .02, that imposed a 3:50 p.m. deadline for the entry, cancellation, or reduction of MOC orders through the PER or AMOS systems.[6] The Exchange, however, did not intend to apply the 3:50 p.m. deadline to options orders and, therefore, the reference to the AMOS system in its rule filing was incorrect. The disruptions that have resulted from MOC equity orders entered through PER have not been a concern with respect to option orders entered through AMOS. Therefore, the restriction on MOC orders in options is unnecessary. Although there are very few MOC option orders entered through AMOS, the 3:50 p.m. deadline is inconvenient to both member organizations and to the Exchange. Moreover, no other options exchange imposes such a restriction.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[7] of the Act in general and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the American Stock Exchange. All submissions should refer to File No. SR–Amex–95–22 and should be submitted by July 27, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Amex's proposed rule change and believes, for the reasons set forth below, the proposal is consistent with the requirements of Section 6 of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 35660 (May 2, 1995), 60 FR 22592.

[4] A market-at-the-close order is a market order that is to be executed at or as near to the close as practicable. *See American Stock Exchange Guide,* Rule 131(e), (CCH) ¶ 9281.

[5] The PER system provides member firms with the means to electronically transmit equity orders, up to volume limits specified by the Exchange, directly to the specialist's post on the trading floor of the Exchange. Securities Exchange Act Release No. 33486 (Jan. 18, 1994), 59 FR 54016. Similarly, the AMOS system is a computerized order routing system that provides member firms with the means to electronically transmit option orders directly to the trading floor of the Exchange. Securities Exchange Act Release No. 34869 (Oct. 20, 1994), 59 FR 4293.

[6] Securities Exchange Act Release No. 35660 (May 2, 1995), 60 FR 22592.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

the Act[9] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act[10] because it will facilitate transactions in securities by allowing for the timely transmission of MOC orders in options to the Amex floor, promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of a free and open market.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that prior to the erroneous reference to the AMOS system in SR–Amex–95–09,[11] member firms were able to enter MOC orders in options after 3:50 p.m. via the AMOS system. Since the approval of that filing, however, the Amex's members have been unable to enter such orders. The Exchange has represented that the implementation of this restriction was a mistake on their part, is unnecessary, and is inconvenient to both the Exchange and its members. Based upon this and the Exchange's further representation that the removal of this deadline would simply reinstate the ability of member firms to enter MOC orders in options after 3:50 p.m., the Commission deems it appropriate to approve the proposed rule change on an accelerated basis. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Section 6 of the Act.[12]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret M. McFarland,

Deputy Secretary.

[FR Doc. 95–16478 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] Securities Exchange Act Release No. 35660 (May 2, 1995), 60 FR 22592.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[Release No. 34–35911; File No. SR–MSRB–95–6]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interim Changes to the Operation of Its Continuing Disclosure Information System of the Municipal Securities Information Library Through December 31, 1995

June 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1995, the Municipal Securities Rulemaking Board (''Board'') or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–95–6). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing herewith a proposed rule change for interim changes to the operation of its Continuing Disclosure Information (''CDI'') System of the Municipal Securities Information Library (''MSIL'') system through December 31, 1995.[1] The Board requests accelerated approval of the proposed rule change in order to permit the CDI System to process material event notices that may be sent to the Board after July 3, 1995, the effective date of certain amendments to SEC Rule 15c2–12 on municipal securities disclosure. The interim changes are as follows:

1. The enrollment procedure for issuers and trustees and use of unique identifying numbers to make submissions to the System will be discontinued. Submissions with cover sheets or that refer to one of the 12 enumerated material events in their title will be accepted from any submitter.[2]

2. The cover sheet in use under the enrollment procedure has been modified to reflect the discontinuation of the enrollment procedure and to obtain identifying information about the issuer, the securities at issue, and the material event being disclosed.

3. The current limit of three pages will be discontinued. The full text of documents, up to 10 pages, will be disseminated electronically. For documents exceeding 10 pages, the first 10 pages will be transmitted, with the full text made available to subscribers by mail, upon request.

4. The interim CDI System will expand its hours for accepting submissions from 9 a.m. to 4 p.m., Eastern Time, to 8 a.m. to 5 p.m., Eastern Time.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 6, 1992, the Commission approved the CDI System for an 18-month pilot period.[3] The CDI System began operating on January 23, 1993, and functions as part of the Board's MSIL system. The CDI System accepts and electronically disseminates voluntary submissions of official disclosure notices relating to outstanding issues of municipal securities. During its first phase of operation, the CDI System only accepted disclosure notices from trustees. On May 17, 1993, the CDI System began accepting disclosure notices from issuers also.[4] On March 10, 1995, the Commission approved an additional extension of the pilot period for the CDI

[1] The MUNICIPAL SECURITIES INFORMATION LIBRARY system and the MSIL system are trademarks of the Board. The MSIL system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991) 56 FR 28194, is a central facility through which information about municipal securities is collected, stored and disseminated.

[2] Rule 15c2–12(b)(5)(i)(C) specifies 11 events which, if material, must be disclosed in a timely manner. Rule 15c2–12(b)(5)(i)(D) also requires that issuers provide notice of the failure to provide required annual financial information. These events are referred to herein as the 12 enumerated material events.

[3] *See* Securities Exchange Act Release No. 30556 (April 6, 1992) 57 FR 12534. A complete description of the CDI system is contained in File No. SR–MSRB–90–4, Amendment No. 1.

[4] On May 17, 1993, the Board reported to the Commission on the initial phase of operation of the CDI System regarding technical, policy and cost issues and proposed enhancements to the System.

System which will expire on December 31, 1995.[5]

On November 10, 1994, the Commission approved amendments to its Rule 15c2–12 which prohibit dealers from underwriting issues of municipal securities unless the issuer commits, among other things, to provide notice of material events to the MSRB or to all Nationally Recognized Municipal Securities Information Repositories (''NRMSIRs'') and to the applicable state information depository if any.[6] In addition, the Rule prohibits dealers from recommending municipal securities without having a system in place to receive material events notices.[7]

The Board has proposed certain changes to the CDI System consistent with the requirements of the new amendments to Rule 15c2–12. The changes discussed herein are interim changes to the CDI System to allow it to accept and disseminate material event notices received after the July 3, 1995, effective date of the amendments to Rule 15c2–12. A permanent system designed to process even more submissions and submissions of varied lengths is currently under development and is expected to be ready for operation by the end of 1995. A filing for approval of the permanent system changes will be made prior to the expiration of the CDI System's pilot period.

There are four areas of change in the interim CDI System. First, the enrollment procedure will be discontinued. As currently operated, an issuer or trustee must enroll in the CDI System and receive a unique identification number and a personal identification number before documents are accepted from the issuer or trustee. The enrollment procedure was designed to provide a measure of security that the submission is authentic and intended for public dissemination. Pursuant to the amendments to Rule 15c2–12, the CDI System must accept material event notices from any issuer or its agent, therefore the MSRB finds the enrollment procedure no longer feasible.

While discontinuing the enrollment procedure leaves the Board without a verification mechanism for submissions, the Commission has stated that NRMSIRs will not be required to verify the accuracy of the information submitted, only to accurately convey the information.[8] The Board similarly asserts that it is not required to undertake to establish the authenticity or accuracy of documents submitted, but that it will attempt to ensure accurate dissemination of documents accepted into the System.

The second change to the operation of the CDI System, designed to assist users in identifying a submission as a material event notice, is a modification to the voluntary cover sheet used by submitters. The use of the modified cover sheet will help to afford some limited assurance to subscribers that the submission is authentic and intended for disclosure to the market as a material event notice. However, the interim CDI System will nevertheless attempt to disseminate a document even when not accompanied by a cover sheet if the document refers, in its title, to one of the 12 enumerated material events.

The third change relates to the length of documents submitted to the CDI System and how they will be handled. Currently, the CDI System disseminates only those documents that do not exceed three pages. The current CDI System was designed with the capability to process about 100 such submissions a day. To open up the CDI System to longer documents, it will begin accepting and disseminating submissions of up to 10 pages in addition to the voluntary cover sheet. It is expected that the capacity of the interim CDI System will allow for processing and electronically disseminating about 200 10-page documents a day. Should a submission exceed 10 pages, the first 10 pages and the cover sheet will be disseminated with a notice to subscribers that the submission exceeds 10 pages. The CDI System will, upon request by a subscriber, make available, by express or regular mail, a copy of the complete submission at the subscriber's expense.[9]

The fourth change extends the hours during which the CDI System will accept submissions. Currently available to receive submissions from 9 a.m. to 4 p.m., Eastern Time, the CDI System will accept documents for an additional two hours; from 8 a.m. to 5 p.m., Eastern Time. Submissions will continue to be disseminated to subscribers after 5 p.m. The additional hours will allow more flexibility for submitters, especially those on the West Coast.

Regarding processing time, the Commission stated in Release 34–34961, approving the amendments to Rule 15c2–12, that 15 minutes might be an appropriate turnaround time for dissemination of material event notices by NRMSIRs, but that it would further discuss the issue during the NRMSIR recognition process. The CDI System had previously processed documents received by facsimile or modem in about 15 minutes, but with a much smaller volume of submissions than is currently anticipated. The Board will use its best efforts to maintain a quick turnaround time for documents sent by facsimile and modem to the interim CDI System. The Board will ensure that any document with a voluntary cover sheet received by facsimile, modem or mail will be disseminated the same day it is received. Depending upon the volume of documents received, documents that refer to the 12 enumerated material events in their title, but do not have voluntary cover sheet, will be disseminated on the same day if possible, however documents received with cover sheets have higher dissemination priority.

The long-term goal is to create a permanent system that will process and disseminate longer documents on a faster turnaround basis. During the interim period prior to the startup of the permanent system, CDI personnel will maintain a log of all submissions disseminated through the CDI System. A long of documents received at Board offices that appeared to be disclosure documents but that were not labeled as material event notices in either a cover sheet or their title will also be maintained.[10] These logs will help the Board to determine whether refinements to the design of the permanent system are needed.

The Board believes that approval of the operation of the interim CDI System will allow it to process material event notices to be received after July 3, 1995. In addition, it will give the Board sufficient time and experience to determine the permanent changes needed, in consultation with the Commission as well as potential users of the system, including NRMSIRs. We anticipate filing permanent system changes before the December 31, 1995, expiration date of the pilot period for the CDI System. At that time, the Board

[5] *See* Securities Exchange Act Release No. 35467 (Mar. 10, 1995) 60 FR 14313.

[6] *See* Securities Exchange Act Release No. 34961 (Nov. 10, 1994) 59 FR 59590. This provision of the Rule will become effective on July 3, 1995.

[7] The effective date of this provision of the Rule is January 1, 1996.

[8] *See* Securities Exchange Act Release No. 34961 at 51 n.155 (Nov. 10, 1994).

[9] Copies will be charged at 20 cents per page plus the cost of postage or express mail.

[10] The CDI System will process any document that is received with a cover sheet or that refers to one of the 12 enumerated material events in its title. However, should documents that clearly are not material event notices, such as official statements, annual or quarterly financial reports, or budgets, be received without a cover sheet, they will be rejected and returned to the submitter, if possible, with a notice that the CDI System accepts material event notices only. The notice will also identify the current NRMSIRs that accept annual financial reports.

also plans to ask the Commission for permanent approval of the CDI System.[11]

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires, in pertinent part, that the Board's rules:

> Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments where neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Board requests that the Commission find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing in the **Federal Register**. Such accelerated approval would permit the interim CDI System to accommodate the notices of material events required to be sent under the amendments to Rule 15c2–12 beginning July 3, 1995. The Board believes that the CDI system will increase the integrity and efficiency of the municipal securities market by helping to ensure that the prices charged for securities trading in the secondary market reflect all available official information about that issue.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–95–6 and should be submitted by [insert date 21 days from the date of publication].

V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing in the **Federal Register**, in that accelerated approval is appropriate to provide for uninterrupted operation of the CDI system, especially in light of the July 3, 1995 effectiveness of the amendments to Rule 15c2–12. Programs like the CDI System are imperative to the effectiveness of Rule 15c2–12. Issuers have the option of providing material event notices to the MSRB or all NRMSIRS and to the State Information Depository, if one exists. The CDI System provides issuers an alternative to providing disclosure information to multiple NRMSIRS. Therefore the functionality of the CDI System is tantamount to its being a useful tool for issuers in complying with Rule 15c2–12.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change be, and hereby is, approved through December 31, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

[11] For the interim CDI System, the price will remain $16,000 for an annual subscription. The price for the permanent system will be reviewed for any appropriate adjustment.

[12] 15U.S.C. 78s(b)(2).

[13] 17 U.S.C. 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–16479 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–11684]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (New York Bancorp Inc., Common Stock, $.01 Par Value)

June 29, 1995.

New York Bancorp Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, the Security is listed on the New York Stock Exchange, Inc. (''NYSE''). The Security commenced trading on the NYSE at the opening of business on June 21, 1995 and concurrently therewith the Security was suspended from trading on the Amex.

In making the decision to withdraw the Security from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant with maintaining the duel listing of the security on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of the Security and believes that dual listing would fragment the market for the Security.

Any interested person may, on or before July 21, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16579 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–12948]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Grand Toys International, Inc., Common Stock, $.001 Par Value, Redeemable Warrants Expiring May 1997)

June 29, 1995.

Grand Toys International, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, it is voluntarily delisting its Securities from listing on the BSE because these securities are listed on the Nasdaq SmallCap Market system, which the Company believes is suitable for its needs and, thus, will save the costs and expenses of BSE listing and avoid market fragmentation.

Any interested person may, on or before July 21, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16578 Filed 7–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26323]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

June 30, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 18, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the applicant(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

UtiliCorp United, Inc. and Northern States Power Co. (31–910)

UtiliCorp United, Inc. (''UtiliCorp''), 911 Main Street, Kansas City, Missouri, 64105, a holding company exempt from registration under rule 10 promulgated under the Act, and Northern States Power Co. (''Northern''), 414 Nicollet Mall, Minneapolis, Minnesota, 55401, a holding company exempt from registration under section 3(a)(2) of the Act, have filed an application under section 3(b) of the Act and rule 10 thereunder for an order of exemption in connection with their contemplated acquisition of an interest in United Energy (''United''), an electric utility company organized under the laws of Australia.

UtiliCorp and Northern propose to participate in a consortium (''Consortium'') that will prepare a bid to acquire 100% of the issued and outstanding stock of United. United is one of the five electric distribution companies created, and currently owned, by the state of Victoria, Australia. Each of the five distribution companies created by the state of Victoria will be separately put up for sale, beginning with United in June 1995. The Consortium will be comprised of a special-purpose subsidiary (''Subsidiary''), 70% of which will be owned by UtiliCorp and 30% of which will be owned by NRG Enery, Inc. (''NRG''), a wholly owned subsidiary company of Northern, and two to five institutional investors from Australia. It is expected that, if the bid is accepted, UtiliCorp will indirectly acquire an equity interest in United of approximately 35% and Northern will indirectly acquire an equity interest in United of approximately 15%.

Neither UtiliCorp or any corporation owned or controlled by UtiliCorp, nor Northern or any corporation owned or controlled by Northern, is subject to regulation under the Act. United is not a public utility company operating in the United States and does not, and following the proposed acquisition will not, serve any customers in the United States. United does not derive any income from U.S. operations or sources within the United States.

UtiliCorp and Northern assert that, since the operations of United will be exclusively within Australia, its sales and revenues, and the regulation thereof, have little or no effect on the rates and business of electric sales and generation within the United States. Accordingly, UtiliCorp and Northern assert that regulation of United as a subsidiary of a holding company under the Act is not necessary for either the public interest or for the protection of investors, and therefore no regulatory purpose would be served by treating United as a subsidiary of a holding company.

UtiliCorp and Northern state that, as a special-purpose subsidiary to be formed for the primary purpose of acquiring an interest in United, the Subsidiary will derive no income from U.S. operations and will not be a public utility company operating in the Untied States. The Subsidiary will not engage in any business other than the acquisition of United and participation in the management and operations of United. Accordingly, regulation of the Subsidiary as a subsidiary of a holding company under the Act is not necessary for either the public interest or for the protection of investors.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–16711 Filed 7–3–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 99000165]

Sixty Wall Street SBIC Fund, L.P.; Notice of Filing of Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CPR 107.102 (1993)) by Sixty Wall Street Fund, L.P. 60 Wall Street, New York, New York 10260 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et seq.), and the Rules and Regulations promulgated thereunder. Sixty Wall Street SBIC Fund, L.P. is a limited partnership formed under Delaware law. It areas of operation are intended to be diversified among numerous regions and industries throughout the United States.

The general partner of Sixty Wall Street SBIC Corporation, a Delaware Corporation (the SBIC GP) which is a special purpose, wholly-owned subsidiary of JP Morgan & Co., Incorporated (JP Morgan & Co.) The SBIC GP will not engage in any business other than serving as general partner of the applicant. The applicant will co-invest and operate side by side with JP Morgan Investment Corporation, an existing SBIC that is also wholly-owned indirectly by JP Morgan & Co., Incorporated. Both JP Morgan Investment Corporation and the applicant operate, and will operate, without SBA leverage. The following limited partner will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
JP Morgan Capital Corporation, 60 Wall Street, New York, New York 10260.	99% (initially)

The applicant intends that there will be ultimately no limited partner that will own as much as 10% of the equity interest of the applicant at any time other than JP Morgan Capital Corporation, which is the initial limited partner. Under the terms of this application, qualified employees of JP Morgan who have elected to participate in the applicant will make capital contributions at the beginning of each year, and accordingly, will be substituted for JP Capital Corporation as they themselves become limited partners of the applicant.

The applicant will begin operations with a capitalization of $2.5 million of cash, which is expected to increase to the $25 to $50 million range in the next five years. The applicant intends to invest among numerous regions, industries and be diversified throughout the United States of America. There are no rigid guidelines as to the industries or geographical regions in which the applicant will invest (other than those specified by the SBIC Act), and the applicant will consider investment opportunities at all stages of a small business concern's life (including seed, start-up, development, expansion and later-stage). Although no particular industry or sector is excluded from consideration (except as required by the SBIC Act), it is currently anticipated that special emphasis will be given to what are believed to be high quality investment opportunities in leading technologies, health, care, and consumer and retailing sectors.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice his hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: June 28, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–16494 Filed 7–5–95; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2787]

Massachusetts (and Contiguous Counties in Connecticut, New York, and Vermont); Declaration of Disaster Loan Area

Berkshire County and the contiguous counties of Franklin, Hampden, and Hampshire in the State of Massachusetts; Litchfield County in the State of Connecticut, Columbia, Dutchess, and Rensselaer Counties in the State of New York; and Bennington and Windham Counties in the State of Vermont constitute a disaster area as a result of damages caused by a tornado which occurred on May 29, 1995. Applications for loans for physical damage may be filed until the close of business on August 28, 1995 and for economic injury until the close of business on March 28, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, New York 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage and economic injury respectively are: Massachusetts, 278712 and 854800; Connecticut, 278812 and 854900; New York, 278912 and 855000; and Vermont, 279012 and 855100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 28, 1995.

Cassandra M. Pulley,

Acting Administrator.

[FR Doc. 95–16495 Filed 7–5–95; 8:45 am]

BILLING CODE 8025–01–M

Territory of Guam; Declaration of Disaster Loan Area (Declaration of Disaster Loan Area #2791)

The Territory of Guam is hereby declared a disaster area as a result of damages caused by a fire at the Hafa Adai Exchange which occurred on June 16, 1995. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 28, 1995 and for economic injury until the close of business on March 28, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 279105 and for economic injury the number is 855200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 28, 1995.

Cassandra M. Pulley,

Acting Administrator.

[FR Doc. 95–16496 Filed 7–5–95; 8:45 am]

BILLING CODE 8025–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–93]

Termination of Investigation: Barriers to Access to the Auto Parts Replacement Market in Japan

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determination to terminate the investigation pursuant to sections 301(b) and 304(a)(1)(B) of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2411(b) and 2414(a)(1)(B)) and notice of monitoring pursuant to section 306 of the Trade Act (19 U.S.C. 2416).

SUMMARY: On May 10, 1995, the United States Trade Representative (USTR) determined pursuant to section 304(a)(1)(A) of the Trade Act that certain acts, policies and practices of Japan are unreasonable and discriminatory and burden or restrict U.S. commerce. Having reached a satisfactory resolution of the issues under investigation, the USTR has determined pursuant to sections 301(b) and 304(a)(1)(B) that the appropriate action in this case is to terminate this investigation and to monitor compliance with this Agreement in accordance with section 306 of the Trade Act.

EFFECTIVE DATE: This investigation was terminated effective June 28, 1995.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: David Burns, Senior Advisor for Japan, (202) 395–5050, or James Southwick, Assistant General Counsel, (202) 395–37203.

SUPPLEMENTARY INFORMATION: On October 1, 1994, the USTR initiated an investigation pursuant to section 302(b) of the Trade Act to determine whether specific barriers to access to the auto parts replacement and accessories market (''after-market'') in Japan are unreasonable or discriminatory and burden or restrict U.S. commerce. See 59 FR 52034 (October 13, 1994). On May 10, 1995, the USTR, pursuant to section 304(a)(1)(A)(ii) of the Trade Act, determined that the practices under investigation were unreasonable and discriminatory and burden or restrict U.S. commerce and requested comment on a proposed action. See 60 FR 26745 (May 18, 1995). The USTR found that the Japanese market for replacement auto parts is restricted by a complex system that is not reasonable or justifiable. This system channels most repair work to government-certified garages that uses very few foreign parts, and the system restricts the development of other garages more likely to carry and use foreign parts. In addition, even minor additions of accessories to motor vehicles require a full vehicle inspection and tax payment, which severely limits opportunities for U.S. automotive accessories suppliers.

On June 28, 1995 after extensive negotiations, the United States and Japan reached agreement on measures to deregulate the replacement parts and accessories market in Japan. Specifically, Japan has agreed to: (a) Immediately deregulate the following items on the critical parts list—struts, shocks, power steering, and trailer hitches, (b) conduct a one-year review of the critical parts list with the goal of deregulating any parts that are not central to health and safety concerns; (c) implement a petition procedure under which the Ministry of Transport will respond within 30 days to requests that a critical part be removed from the list; (d) with respect to accessories, no longer require Ministry of Transport (MOT) inspection for modifications attached to autos by any means other than welding and riveting; (e) issue regulations to establish a ''specialized certified garage'' system for garages that specialize in the repair of any combination of vehicle systems on the critical parts list and not require repairs by these garages to be subject to MOT inspection; (f) reduce the number of government-approved mechanics for ''designated'' garages from 3 to 2 and for ''certified'' garages from 2 to 1; and (g) permit ''certified'' garages with 5 mechanics to conduct the periodic inspections as ''special designated garages.''

On the basis of the commitments contained in this Agreement and in the expectation that these commitments will be fully implemented, the USTR has decided to terminate this investigation. Consequently, although the acts, policies, and practices under investigation are unreasonable and discriminatory and burden or restrict U.S. commerce and would have warranted action in response if an agreement had not been reached, the USTR has decided that the appropriate action is to terminate the investigation. Thus the action proposed in the May 18, 1995, notice will not be taken. The USTR will monitor Japan's compliance with this Agreement pursuant to section 306 of the Trade Act.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 95–16737 Filed 7–5–95; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Southwest Florida International Airport, Ft. Myers, Florida

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the revised future

noise exposure map submitted by the Lee County Port Authority, Ft. Myers, Florida for The Southwest Florida International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150 is in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for The Southwest Florida International Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before November 13, 1995. This program was submitted subsequent to a determination by FAA that the associated existing noise exposure map submitted under 14 CFR Part 150 for The Southwest Florida International Airport was in compliance with applicable requirements effective November 21, 1994.

EFFECTIVE DATE: The effective date of the FAA's determination on the revised future noise exposure map and of the start of its review of the associated noise compatibility program is May 17, 1995. The public comment period ends July 16, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, (407) 648–6583. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the revised future noise exposure map submitted for The Southwest Florida International Airport is in compliance with applicable requirements of Part 150, effective May 17, 1995. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before November 13, 1995. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operators will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties to the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Lee County Port Authority, Ft. Myers, Florida, submitted to the FAA on April 27, 1995, a revised future noise exposure map, descriptions and other documentation which were produced during the Southwest Florida International Airport FAR Part 150 Study conducted between January, 1994 and April, 1995. It was requested that the FAA review this material as the future noise exposure map, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the revised future noise exposure map and related descriptions submitted by the Lee County Port Authority, Ft. Myers, Florida. The specific map under consideration is ''RECOMMENDED FUTURE (1999) NOISE CONTOURS WITH RUNWAY EXTENSIONS AND PARALLEL RUNWAY MAP B'' in the submission. The FAA has determined that this map for The Southwest Florida International Airport is in compliance with applicable requirements. This determination is effective on May 17, 1995. FAA's determination on an airport operator's noise exposure maps is limited to a funding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for The Southwest Florida International Airport, also effective on May 17, 1995. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 13, 1995.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397

Lee County Port Authority, 16000 Chamberlin Parkway, Suite 8671, Ft. Myers, FL 33913–8899

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT:**

Issued in Orlando, Florida May 17, 1995.

Charles E. Blair,

Manager, Orlando Airports District Office.

[FR Doc. 95–16552 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–13–M

Civil Tiltrotor Development Advisory Committee; Infrastructure Subcommittee

Pursuant to Section 10(A) (2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) Infrastructure Subcommittee that will be held on July 17, 1995 at the headquarters of the Helicopter Association International located at 1635 Prince Street, Alexandria, Virginia. This site is within easy walking distance of the King Street Metro Station. The meeting will begin at 10:00 a.m. and conclude by 5:00 p.m.

The agenda for the Infrastructure Subcommittee meeting will include the following:

(1) Review and discussion of the Subcommittee draft report.

(2) Review the Infrastructure Subcommittee work plans/schedule.

Persons who plan to attend the meeting should notify Ms. Karen Braxton on 202–267–9451 by July 11. Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Karen Braxton at least seven days prior to the meeting. Issued in Washington, D.C., June 29, 1995.

Eileen R. Verna,

Acting Designated Federal Official, Civil Tiltrotor Development, Advisory Committee.

[FR Doc. 95–16550 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–13–M

Civil Tiltrotor Development Advisory Committee Environment & Safety Subcommittee

Pursuant to Section 10(A) (2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) Environment & Safety Subcommittee will be on July 18, 1995 at the headquarters of the Helicopter Association International located at 1635 Prince Street, Alexandria, Virginia. This site is within easy walking distance of the King Street Metro Station. The meeting will begin at 8:00 a.m. on June 18 and conclude by 5:00 p.m.

The agenda for the Environment & Safety Subcommittee meeting will include the following:

(1) Discussion of draft Subcommittee report on Safety Issues

(2) Discussion of draft Subcommittee report on Environmental Issues

(3) Review Subcommittee Work Plan/ Schedule

All persons who plan to attend the meeting must notify Ms. Karen Braxton at 202–267–9451 by July 12, 1995.

Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Braxton at least seven days prior to the meeting.

Issued in Washington, D.C., June 29, 1995.

Eileen R. Verna,

Acting Designated Federal Official, Civil Tiltrotor Development, Advisory Committee.

[FR Doc. 95–16551 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Currituck County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Highway Administration is issuing this notice to advise the public that an environmental impact statement will be prepared for a Mid-Currituck Sound bridge in Currituck County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, Operations Engineer, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone: (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposal to build a bridge and approach roadway connecting US 158 on the mainland to NC 12 on the Outer Banks, crossing Currituck Sound. The proposed project would include approximately 3.7 kilometers (2.3 miles) of approach road on the mainland and a bridge across the sound of approximately 7.6 kilometers (4.7 miles).

The proposed project is considered necessary to relieve forecast congestion on US 158 and NC 12, to improve access to public services for Outer Bank residents and to improve future emergency evaluation times. Alternatives under consideration include (1) taking no action and (2) building a bridge in one of six corridors made up of differing combinations of three mainland approach corridors and two Outer Bank termini.

The alternatives to be evaluated in the EIS were chosen based on the results of an alternatives study conducted in 1994 and 1995. Nine bridge alternatives and several no-bridge alternatives were studied. The no-bridge alternatives were: improve existing roads, improving public services on the Outer Banks, altering storm evacuation plans and a ferry alternative. The reasonableness of widening existing roads in lieu of building the bridge will be examined further. Improving public services on the Outer Banks and altering storm evacuation plans are options Currituck County could implement if the no action alternative was found to be unreasonable.

In April 1994, a letter describing the proposed action and soliciting comments was sent to appropriate federal, state and local agencies. An interagency scoping meeting was held on May 26, 1994 to introduce the project to federal and state regulatory agencies. Key environmental issues raised during the meeting were (1) the potential for secondary and cumulative impacts, particularly in terms of the potential for the bridge to alter existing development trends in Currituck County, (2) the need to evaluate no bridge alternatives, (3) disturbance of existing communities on the mainland by the approach road and its associated traffic and (4) the sensitivity and importance of Currituck Sound, Maple Swamp and the Outer Banks as natural resources.

During the alternative study, two sets of citizen informational workshops (August 1994 and April 1995) and one additional interagency meeting (November 1994) were held. Prior to selection of the alternatives to be

evaluated in the EIS, the results of the alternatives study were discussed at the second workshop and second interagency meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Issued on: June 27, 1995.

Roy C. Shelton,

Operations Engineer, Raleigh, North Carolina.

[FR Doc. 95–16486 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[Waiver Petition Docket Nos. RSOR–94–1, RSOP–94–5, RSAD–94–1, HS–94–3, RESQ–94–7]

Petition for a Waiver Compliance; Public Hearing

The James River Corporation seeks permanent exemption from all requirements associated with title 49 Code of Federal Regulations parts 217 Railroad Operating Rules, 218 Railroad Operating Practices, 219 Control of Alcohol and Drug Use, 228 Hours of Service, and 240 Qualification of Certification Locomotive Engineers. The James River Corporation operates a plant railroad inside their Naheola paper mill, located in Pennington, Alabama, and occasionally operates over the Meridian and Bigbee Railroad (MBRR), which is also owned by James River Corporation. The method of operation on the MBRR is yard limits. The petitioner indicates that granting the exemption will greatly facilitate the movement of cars within the yard limits and is in the public interest and will not adversely affect safety.

The Federal Railroad Administration (FRA) has determined that a public hearing be held in this matter. Accordingly, a public hearing is hereby scheduled for 8 a.m., July 19, 1995, in the Police Court Room at 2415 Sixth Street, Meridian, Mississippi. The hearing will be informal and conducted in accordance with Rule 25 of the FRA rules of practice (Title 49 CFR 211.25), by a representative designated by the FRA. The hearing will be a nonadversarial proceeding in which all interested parties will be given the opportunity to express their view regarding this waiver petition.

Issued in Washington, DC., on June 28, 1995.

James T. Schultz,

Acting Director, Office of Safety Enforcement.

[FR Doc. 95–16493 Filed 7–5–95; 8:45 am]

BILLING CODE 4910–06–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Delays in Processing of Exemption Applications

AGENCY: Research and Special Program Administration, DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Office of Hazardous Materials Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001. (202) 366–4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant
2. Extensive Public comment under review
3. Applicant is technically very complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application

M—Modification request

PM—Party to application with modification request

Issued in Washington, DC, On June 30, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Applications No.	Applicant	Reason for delay	Estimated date of completion
10443–N	Accuracy Systems, Inc., Phoenix, AZ	1	08/15/1995
10581–N	Luxfer UK Limited, Nottingham, England	4	08/01/1995
10592–N	MG Industries, Valley Forge, PA	1, 3, 4	09/25/1995
10606–N	General Oil Equipment Co., Inc., Tonawanda, NY	4	08/15/1995
10664–N	EFIC Corporation, San Jose, CA	1, 3, 4	08/30/1995
10704–N	Liquid Air Corporation, Walnut Creek, CA	1, 4	07/30/1995
10740–N	CSXT/BIDS, Philadelphia, PA	4	08/01/1995
10747–N	Shell Oil Company, Houston, TX	4	07/15/1995
10760–N	Applied Companies, San Fernando, CA	4	09/01/1995
10778–N	Liquid Carbonic Specialty Gas Corporation, Chicago, IL	1, 4	08/15/1995
10829–N	Amoco Pipeline Company, Levelland, TX	4	07/15/1995
10835–N	Shell Oil Company, Houston, TX	4	07/15/1995
10875–N	Morton International, Inc., Ogden, UT	4	08/01/1995
10896–N	Air Products and Chemicals, Inc., Allentown, PA	1	08/10/1995
10915–N	Luxfer USA Limited, Riverside, CA	1, 3, 4	08/30/1995
10945–N	Structural Composites Industries, Pomona, CA	1, 3, 4	08/30/1995
10946–N	Airco Gases of The BOC Group Inc., Murray Hill, NJ	1, 4	08/15/1995
10996–N	AeroTech, Inc. & Industrial Solid Propulsion, Inc., Las Vegas, NV	1, 3	09/01/1995
10997–N	HR Textron, Inc., Pacoima, CA	1, 4	09/15/1995

NEW EXEMPTION APPLICATIONS—Continued

Applications No.	Applicant	Reason for delay	Estimated date of completion
11012–N	Martin Marietta, Denver, CO	3	09/01/1995
11098–N	Alcan Smelters and Chemicals Ltd., Montreal, CN	3	08/01/1995
11117–N	Champion International Corporation, Hamilton, OH	4	09/01/1995
11151–N	SET Environmental, Inc., Wheeling, IL	4	09/01/1995
11153–N	SET Environmental, Inc., Wheeling, IL	4	09/01/1995
11157–N	Northwest Ohio Towing & Recovery, Beaverdam, OH	4	10/01/1995
11165–N	Oxford Container Co., New Oxford, PA	4	08/01/1995
11169–N	Amalgamet Canada, Toronto, Ontario, Canada	4	07/15/1995
11185–N	Medical Disposal Services, Inc., Chicago, IL	4	08/01/1995
11193–N	U.S. Department of Defense, Falls Church, VA	4	08/01/1995
11194–N	Pressure Technology, Inc., Hanover, MD	3, 4	09/15/1995
11207–N	Duke Power Company, Charlotte, NC	4	08/15/1995
11209–N	National Propane Gas Association, Arlington, VA	3	11/01/1995
11218–N	Allied Signal, Inc., Morristown, NJ	4	09/01/1995
11241–N	Rohm and Haas Company, Philadelphia, PA	3	09/01/1995
11249–N	UOP, Shreveport, LA	4	09/01/1995
11275–N	DHE Fabrication and Machining, Vereening, RA	4	07/15/1995
11278–N	Regional Hospital Services, Inc., Portsmouth, VA	4	07/15/1995
11282–N	Idaho Power Company, Boise, ID	3	08/15/1995
11284–N	Webb Chemical Service Corp., Muskegon, MI	4	09/01/1995
11285–N	Akzo Chemicals, Inc., Chicago, IL	3	08/01/1995
11286–N	International Sensor Technology, Irvine, CA	1, 3	09/01/1995
11301–N	ICI Explosives USA Inc., Dallas, TX	3, 4	08/01/1995
11302–N	Stolt Tank Containers Limited, Hull, North Humberside, EN	4	07/15/1995
11307–N	Jacx Enterprise, Highlands, TX	4	09/01/1995
11315–N	Southern Pacific Lines, Houston, TX	4	06/01/1995
11322–N	Hydra Rig, Inc., Ft. Worth, TX	4	08/15/1995
11324–N	Certified Cylinder, Inc., Crossville, TN	4	07/15/1995
11327–N	Medical Waste Associates, Inc., Baltimore, MD	4	07/15/1995
11330–N	Autoransportes Ideal, S.A. de C.V., Gas Ideal de Reynosa, Mexico	4	08/15/1995
11338–N	BF Goodrich Specialty Chemicals, Cleveland, OH	4	09/01/1995
11340–N	McCain Foods, Inc., Easton, MA	4	09/01/1995

MODIFICATIONS TO EXEMPTIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
1479–M	U.S. Department of Defense, Kelly AFB, TX	4	08/15/1995
3121–M	U.S. Department of Defense, Falls Church, VA	4	08/15/1995
9001–M	Chesterfield Cylinders Limited, Chesterfield, Derbyshire, EN	1	08/15/1995
9221–M	Applied Companies, San Fernando, CA	4	08/15/1995
10227–M	Caire, Inc., Bloomington, MN	4	08/01/1995
10441–M	ETSS of Ohio, Inc., Tipp City, OH	4	08/01/1995
10645–M	Essex Cryogenics of Missouri, Inc., St. Louis, MO	4	08/01/1995
10913–M	Aco-Assmann of Canada Ltd., Pickering, Ontario, Canada	4	08/01/1995

PARTIES TO EXEMPTION APPLICATIONS WITH MODIFICATION

Application No.	Applicant	Reason for delay	Estimated date of completion
11249—PM	Ashland Chemical Company, Columbus, OH	4	09/01/1995

[FR Doc. 95–16637 Filed 7–5–95; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Senior Executive Service; Financial Management Service Performance Review Board

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of members to the Financial Management Service (FMS) Performance Review Board (PRB).

DATES: This notice is effective on July 6, 1995.

FOR FURTHER INFORMATION CONTACT:

Michael T. Smokovich, Deputy Commissioner, Financial Management Service, 401 14th St., SW., Washington, DC 20227; telephone (202) 874–7000.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), notice is given of the appointment of individuals to serve as members of the FMS PRB. The PRB reviews the performance appraisals of career senior executives below the Assistant Commissioner level and makes recommendations regarding ratings, bonuses, and other personnel actions. Three voting members constitute a quorum. The names and titles of the FMS PRB members are as follows:

Primary Members

Michael T. Smokovich, Deputy Commissioner
Bland T. Brockenborough, Assistant Commissioner, Regional Operations
Diane E. Clark, Assistant Commissioner, Financial Information
Constance E. Craig, Assistant Commissioner, Information Resources
Mitchell A. Levine, Assistant Commissioner, Management

Alternate Members

Larry D. Stout, Assistant Commissioner, Federal Finance
Walter L. Jordan, Assistant Commissioner, Agency Services
Virginia B. Harter, Associate Deputy Commissioner for Re-Engineering

Dated: June 29, 1995.

Russell D. Morris,

Commissioner.

[FR Doc. 95–16554 Filed 7–5–95; 8:45 am]

BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

June 23, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1332.

Regulation ID Number: INTL–3–92 NPRM.

Type of Review: Extension.

Title: Proposed Amendments to the Regulations on Branch Profits Tax on Effectively Connected Income.

Description: The regulation explains, among other things, how a foreign corporate partner in a partnership engaged in a U.S. trade or business determines its U.S. assets for purposes of computing its branch profits tax under section 884. Depending on the partner's interest, two different rules apply. One group of partners may elect, however, to be treated under the rule applicable to the other group.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–16570 Filed 7–5–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

June 29, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1112.

Regulation ID Number: IA–96–88 Final.

Type of Review: Extension.

Title: Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988.

Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the elections is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents: 24,305.

Estimated Burden Hours Per Respondent: 17 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 7,712 hours.

OMB Number: 1545–1324.

Regulation ID Number: CO–88–90 Final.

Type of Review: Extension.

Title: Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.

Description: This information serves as evidence of an election to apply section 382(1)(6) in lieu of section 382(1)(5) and an election to apply the provisions of the regulations retroactively. It is required by the Internal Revenue Service to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 3,250.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 813 hours.

OMB Number: 1545–1339.

Regulation ID Number: IA–33–92 Final.

Type of Review: Extension.

Title: Information Reporting for Reimbursements of Interest on Qualified Mortgages.

Description: To encourage compliance with the tax laws relating to the mortgage interest deduction, the regulations would require the reporting on Form 1098 of reimbursements of interest overcharged in a prior year. Only businesses that received mortgage interest in the course of that business are affected by this reporting requirement.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1341.
Regulation ID Number: EE–43–92 NPRM and Temporary Regulations.
Type of Review: Extension.
Title: Direct Rollover and 20 Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans, etc.
Description: These regulations provide rules implementing the provisions of the enacted Unemployment Compensation Amendments (Public Law 102–318) requiring 20 percent income tax withholding upon certain distributions from qualified pension plans or tax-sheltered annuities.
Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 10,160,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 2,116,300 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–16571 Filed 7–5–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

June 29, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0177.
Form Number: IRS Form 4684.
Type of Review: Extension.
Title: Casualties and Thefts.
Description: This form is used by all taxpayers to compute their gain or loss from casualties or thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 300,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—1 hr., 12 min.
Learning about the law or the form—12 min.
Preparing the form—1 hr., 2 min.
Copying, assembling, and sending to the form to the IRS—35 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 903,000 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–16572 Filed 7–5–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

June 26, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (BPD)

OMB Number: 1535–0082.
Form Number: PD F 5237.
Type of Review: Extension.
Title: Subscription for Purchase of Treasury Securities—State and Local Government Series One-Day Certificate of Indebtedness.
Description: PD F 5237 is used to collect information from State and Local Government entities wishing to purchase Treasury Securities.
Respondents: State, Local or Tribal Governments.
Estimated Number of Respondents: 30,000.
Estimated Burden Hours Per Response: 8 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,000 hours.

OMB Number: 1535–0083.
Form Number: PD F 5238.
Type of Review: Extension.
Title: Request for Redemption of U.S. Treasury Securities—State and Local Series One-Day Certificate of Indebtedness.
Description: PD F 5238 is used to collect information from State and Local Government entities to process redemptions of U.S. Treasury Securities.
Respondents: State, Local or Tribal Governments.
Estimated Number of Respondents: 30,000.
Estimated Burden Hours Per Response: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 2,000.

OMB Number: 1535–0097.
Form Number: PD F's 4087, 4087–1, and 4087–3.
Type of Review: Extension.
Title: Bond of Indemnity.
Description: These forms are used to support claims for relief on account of lost, stolen, or destroyed securities.
Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 500 hours.

OMB Number: 1535–0117.
Form Number: PD F 1010.
Type of Review: Extension.
Title: Resolution by Governing Body of an Organization Authorizing Assignment and Disposition of Specified Securities Owned in its Own Right or in a Fiduciary Capacity.
Description: PD F 1010 is completed by an official of an organization that is designated to act on behalf of the organization.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 25.
Estimated Burden Hours Per Response: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4 hours.

Clearance Officer: Vicki S. Ott (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–16567 Filed 7–5–95; 8:45 am]

BILLING CODE 4810–40–P

Public Information Collection Requirements Submitted to OMB for Review

June 29, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0006.

Form Number: ATF F 3310.4.

Type of Review: Extension.

Title: Report of Multiple Sales or Other Disposition of Pistols and Revolvers.

Description: This form is used by ATF to develop investigative leads and patterns of criminal activity. It identifies possible handgun traffickers in the illegal market. Its use along the border identifies possible international traffickers.

Respondents: Business or other for-profit, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 10,000.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 8,000 hours.

OMB Number: 1512–0019.

Form Number: ATF F 6A (5330.3c).

Type of Review: Extension.

Title: Release and Receipt of Imported Firearms, Ammunition and Implements of Ware.

Description: This information collection is needed to verify importation of firearms, ammunition and implements of war. ATF Form 6A is completed by Federal firearms licensees, active duty military members, nonresident United States citizens returning to the United States and aliens immigrating to the United States.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Respondent: 24 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 8,000 hours.

OMB Number: 1512–0247.

Recordkeeping Requirement ID Number: ATF REC 5000/2.

Type of Review: Extension.

Title: Manufacture of Ammunition, Records and Supporting Data of Ammunition Manufactured and Disposed of.

Description: These records are used by ATF in criminal investigations and compliance inspections in fulfilling the Bureau's mission to enforce the Gun Control Law.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 50.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: Other.

Estimated Total Reporting/ Recordkeeping Burden: 325 hours.

OMB Number: 1512–0385.

Recordkeeping Requirement ID Number: ATF REC 5900/1.

Type of Review: Extension.

Title: Proprietors or Claimants Exporting Liquors.

Description: Distilled Spirits, wine and beer may be exported from bonded premises without payment of tax or these products may be exported in a taxpaid status with the tax claimed back (drawback). Record is needed to allow the amounts exported to be verified and to maintain accountability over products. Protects the revenue.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 120.

Estimated Burden Hours Per Respondent/Recordkeeper: 60 hours.

Frequency of Response: Other.

Estimated Total Reporting/ Recordkeeping Burden: 7,200 hours.

OMB Number: 1512–0387.

Recordkeeping Requirement ID Number: ATF REC 7570/2 and ATF REC 7570/3.

Type of Review: Extension.

Title: Records of Acquisition and Disposition, Importers, Dealers, Collectors of Firearms, and Importers, Dealers, Collectors of Ammunition (Pistol/Interchangeable Calibers).

Description: These records are used by ATF in criminal investigations and compliance inspections in fulfilling the Bureau's mission to enforce the Gun Control Law.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 172,250.

Estimated Burden Hours Per Respondent/Recordkeeper: 3 hours.

Frequency of Response: Other.

Estimated Total Reporting/ Recordkeeping Burden: 516,750 hours.

OMB Number: 1512–0399.

Form Number: ATF F 5400.21.

Type of Review: Extension.

Title: Application Permit For User Limited Special Fireworks (18 U.S.C. Chapter 40, Explosives).

Description: This form is used to verify the eligibility of and grant permission to the holder to buy or transport explosives in interstate commerce on a one-time basis.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,800.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 540 hours.

OMB Number: 1512–0512.

Form Number: None.

Type of Review: Extension.

Title: Notices Relating to Payment of Firearms and Ammunition Excise Taxes.

Description: Excise taxes are collected on the sale or use of firearms and ammunition by firearms or ammunition manufacturers, importers or producers. Taxpayers who elect to pay excise taxes by electronic fund transfer must furnish a written notice upon election and discontinuance. Tax revenue will be protected.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–16568 Filed 7–5–95; 8:45 am]

BILLING CODE 4810–31–P

Public Information Collection Requirements Submitted to OMB for Review

June 22, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0041
Form Number: IRS Form 966
Type of Review: Extension
Title: Corporate Dissolution or Liquidation
Description: Form 966 is filed by a corporation whose shareholders have agreed to liquidate the corporation. As a result of the liquidation, the shareholders received the property of the corporation in exchange for their stock. The IRS uses Form 966 to determine if the liquidation election was properly made and if any taxes are due on the transfer of property.
Respondents: Business or other for-profit
Estimated Number of Respondents/ Recordkeepers: 26,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hr., 1 min.
Learning about the law or the form—6 min.
Preparing and sending the form to the IRS—11 min.
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 138,060 hours

OMB Number: 1545–0150
Form Number: IRS Form 2848
Type of Review: Extension
Title: Power of Attorney and Declaration of Representative
Description: Form 2848 is used to authorize someone to act for the respondent in tax matters. It grants all powers that the taxpayer has except signing a return and cashing refund checks. Data is used to identify representatives and to ensure that confidential information is not divulged to unauthorized persons.
Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms
Estimated Number of Respondents/ Recordkeeping: 800,000
Estimated Burden Hours Per Respondent/Recordkeeping:
Recordkeeping—20 min.
Learning about the law or the form—29 min.
Preparing the form—29 min.
Copying, assembling, and sending the form to the IRS—35 min.
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 1,504,000 hours

OMB Number: 1545–0165
Form Number: IRS Form 4224
Type of Review: Extension
Title: Exemption from Withholding of Tax on Income Effectively Connected with the Conduct of a Trade or Business in the United States
Description: Form 4224 is used by nonresident alien individuals or fiduciaries, foreign partnerships, or foreign corporations to obtain exemption from withholding of tax on certain types of income if that income is effectively connected with a U.S. trade or business. The IRS uses the information to determine if the exemption is proper.
Respondents: Individuals or households, Business of other for-profit
Estimated Number of Respondents/ Recordkeepers: 24,750
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—11 min.
Preparing the form—14 min.
Copying, assembling, and sending the form to the IRS—14 min.
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 18,810 hours

OMB Number: 1545–0201
Form Number: IRS Form 5308
Type of Review: Extension
Title: Request for Change in Plan/Trust Year
Description: Form 5308 is used to request permission to change the plan or trust year for a pension benefit plan. The information submitted is used in determining whether IRS should grant permission for the change.
Respondents: Business or other for-profit
Estimated Number of Respondents: 480
Estimated Burden Hours Per Respondent: 44 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 339 hours

OMB Number: 1545–0244
Form Number: IRS Form 6199
Type of Review: Extension
Title: Certification of Youth Participating in a Qualified Cooperative Education Program
Description: Internal Revenue Code (IRC) section 51(d)(8) requires that qualified school cooperative programs must certify their qualified students as youths participating in a qualified cooperative program in order that wages paid to the students by an employer be qualified for the jobs credit. Form 6199 provides for this certification.
Respondents: Business or other for-profit, Farms.
Estimated Number of Respondents/ Recordkeepers: 64,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—7 min.
Preparing the form—24 min.
Copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 62,080 hours.

OMB Number: 1545–0531.
Form Number: IRS Form 706NA.
Type of Review: Revision.
Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of Nonresident Not a Citizen of the United States.
Description: Under section 6018, executors must file estate tax returns for nonresident noncitizens who had property in the United States. Executors use Form 706NA for this purpose. IRS uses the information to determine correct tax and credits.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 300.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—1 hr., 38 min.
Learning about the law or the form—32 min.
Preparing the form—1 hr., 46 min.
Copying, assembling, and sending the form to the IRS—41 min.
Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,304 hours.
OMB Number: 1545–0685.
Form Number: IRS Form 1363.
Type of Review: Extension.
Title: Export Exemption Certificate.
Description: This form is used by air carriers of property by air to justify the tax-free transport of property. It is used by IRS as proof of tax exempt status of each shipment.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 100,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hr., 52 min.
Learning about the law or the form—12 min.
Preparing, copying, assembling and sending the form to the IRS—15 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 332,000 hours.
OMB Number: 1545–0725.
Form Number: IRS Form 928.
Type of Review: Extension.
Title: Fuel Bond.
Description: Certain sellers of gasoline and diesel fuel may be required under section 4101 to post bond before they incur liability for gasoline and diesel fuel excise taxes imposed by sections 4081 and 4091. This form is used by taxpayers to give bond and provide other information required by Regulations section 48.4101–2T.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—1 hr., 55 min.
Learning about the law or the form—18 min.
Preparing, copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 1,280 hours.
OMB Number: 1545–0874.
Form Number: IRS Form 8328.
Type of Review: Extension.
Title: Carryforward Election of Unused Private Activity Bond Volume Cap.
Description: Section 146(f) of the Internal Revenue Code requires that issuing authorities of certain types of tax-exempt bonds must notify the IRS if they intend to carry forward the unused limitation for specific projects. The IRS uses the information to complete the required study of tax-exempt bonds (required by Congress).
Respondents: Business or other for-profit, State, Local or Tribal Government.
Estimated Number of Respondents/ Recordkeepers: 10,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—6 hr., 13 min.
Learning about the law or the form—2 hr., 11 min.
Preparing and sending the form to the IRS—2 hr., 23 min.
Frequency of Response: On occasion.
Estimated Total Reporting Recordkeeping Burden: 107,800 hours.
OMB Number: 1545–0881.
Form Number: IRS Form 8271.
Type of Review: Extension.
Title: Investor Reporting of Tax Shelter Registration Number.
Description: All persons who are claiming a deduction, loss, credit, or other tax benefit, or reporting any income on their returns from a tax shelter required to be registered (under IRC 6111) must report the tax shelter registration number on that return. Form 8271 is used for this. We use the information to associate claimed benefits with the tax shelter and to determine if any compliance actions are needed.
Respondents: Individuals or households, Business of other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government
Estimated Number of Respondents/ Recordkeepers: 297,500
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—15 min.
Preparing the form—17 min.
Copying, assembling, and sending the form to the IRS—14 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 258,825 hours
OMB Number: 1545–0884
Form Number: IRS Form 8279
Type of Review: Revision
Title: Election to be Treated as a FSC or a Small FSC
Description: A foreign corporation and its shareholders must elect to be Foreign Sales Corporation (FSC) or small FSC. Form 8279 is used to make the election. Form 8279 provides IRS with the necessary information to determine that the foreign corporation qualifies to be a FSC, number and types of shareholders, and tax year of the FSC and its principal shareholder.
Respondents: Business or other for-profit
Estimated Number of Respondents/ Recordkeepers: 5,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—4 hr., 32 min.
Learning about the law or the form—1 hr., 35 min.
Preparing and sending the form to the IRS—1 hr., 44 min.
Frequency of Response: Other
Estimated Total Reporting/ Recordkeeping Burden: 39,350 hours
OMB Number: 1545–0902
Form Number: IRS Forms 8288 and 8288–A
Type of Review: Extension
Title: U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (8288); and Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests (8288–A)
Description: Form 8288 is used by the withholding agent to report and transmit the withholding to IRS. Form 8288–A is used to validate the withholding and to return a copy to the transferee for his/her use in filing a tax return.
Respondents: Business or other for-profit, Individuals or households
Estimated Number of Respondents/ Recordkeepers: 4,918
Estimated Burden Hours Per Respondent/Recordkeeper: Form 8828 and Form 8828–A:
Recordkeeping—5 hr., 30 min.; 2 hr., 52 min.
Learning about the law or the form—4 hr., 28 min.; 12 min.
Preparing and sending the form to the IRS—4 hr., 46 min.; 15 min.
Frequency of Response: On occasion
Estimated Total Reporting Recordkeeping Burden: 106,784 hours
OMB Number: 1545–0915
Form Number: IRS Form 8332
Type of Review: Extension
Title: Release of Claim to Exemption for Child of Divorced or Separated Parents
Description: This form is used by the custodial parent to release claim to the dependency exemption for a child of divorced or separated parents. The data is used to verify that the noncustodial parent is entitled to claim the exemption.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 150,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—5 min.
Preparing the form—7 min.
Copying, assembling, and sending the

form to the IRS—14 min.
Frequency of Response: Annually
Estimated Total Reporting Recordkeeping Burden: 81,000 hours
OMB Number: 1545–1021
Form Number: IRS Form 8594
Type of Review: Extension
Title: Asset Acquisition Statement
Description: Form 8594 is used by the buyer and seller of assets to which goodwill or going concern value can attach to report the allocation of the purchase price among the transferred assets.
Respondents: Business or other for-profit, Individuals or households, Farms
Estimated Number of Respondents/ Recordkeepers: 20,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—10 hr., 46 min.
Learning about the law or the form—30 min.
Preparing and sending the form to the IRS—42 min.
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 239,000 hours
OMB Number: 1545–1060
Form Number: IRS Form 8288–B
Type of Review: Extension
Title: Application for Withholding Certificate for Disposition by Foreign Persons of U.S. Real Property Interests
Description: Form 8288–B is used to apply for a withholding certificate -13 from IRS to reduce or eliminate the withholding required by section 1445.
Respondents: Business or other for-profit, Individuals or households
Estimated Number of Respondents/ Recordkeepers: 5,079
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hr., 4 min.
Learning about the law or the form—1 hr., 49 min.
Preparing the form—50 min.
Copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 25,700 hours
OMB Number: 1545–1135
Form Number: IRS Form 8817
Type of Review: Extension
Title: Allocation of Patronage and Nonpatronage Income and Deductions
Description: Form 8817 is used by taxable Farmer Cooperatives to indicate their income and deductions by patronage and nonpatronage source. IRS uses this information to improve the classification of returns for examinations, and to enhance taxpayer compliance.
Respondents: Business or other for-profit, Farms
Estimated Number of Respondents/ Recordkeepers: 1,650
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—16 hr., 44 min.
Learning about the law or the form—30 min.
Preparing and sending the form to the IRS—47 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 21,648 hours
OMB Number: 1545–1165
Form Number: IRS Form 8821
Type of Review: Extension
Title: Tax Information Authorization
Description: Form 8821 is used to appoint someone to receive or inspect certain tax information. Data is used to identify appointees and to ensure that confidential information is not divulged to unauthorized persons.
Respondents: Individuals or households, Business of other for-profit, Not-for-profit institutions, Farms
Estimated Number of Respondents/ Recordkeepers: 200,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—11 min.
Preparing the form—22 min.
Copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 202,000 hours
Clearance Officer: Garrick Shear (202) 622–3869 Internal Revenue Service Room 5571 1111 Constitution Avenue, N.W. Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–7340 Office of Management and Budget Room 10226, New Executive Office Building Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–16569 Filed 7–5–95; 8:45 am]

BILLING CODE 4830–01–P

[Treasury Order 100–12]

Delegation of Authority Relating to Treasury Advances to the District of Columbia

Dated: June 27, 1995.

1. By virtue of the Authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b), I hereby delegate to the Under Secretary (Domestic Finance) the authority of the Secretary of the Treasury under title VI of the District of Columbia Revenue Act of 1939, as amended by section 204 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8, 109 Stat. 97, 119) (the Act):

a. to approve advances of funds being made from the Treasury to the District of Columbia; and

b. to exercise any right or power, make any finding or determination, or perform any duty or obligation which the Secretary of the Treasury is authorized to exercise, make or perform under the Act related to approving such advances.

2. This authority may be redelegated in writing to an appropriate subordinate official.

Robert E. Rubin,

Secretary of the Treasury.

[FR Doc. 95–16573 Filed 7–5–95; 8:45 am]

BILLING CODE 4810–25–P

Corrections

Federal Register

Vol. 60, No. 129

Thursday, July 6, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Two Purchase Units, California and Oregon, and an Addition to the Sur Sur Purchase Unit, California

Correction

In notice document 95–7614 beginning on page 15896 in the issue of Tuesday, March 28, 1995, make the following correction:

On page 15897, in the first column, in the land description for Douglas County, Oregon, in the 4th line, ''E½W¼'' should read ''E½NW¼''.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1309, 1313, and 1316

[DEA No. 112F]
RIN 1117–AA23

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

Correction

In rule document 95–14978 beginning on page 32447 in the issue of Thursday, June 22, 1995, make the following corrections:

§ 1309.12 [Corrected]

1. On page 32455, in the second column, in § 1309.12(b), in the sixth line, insert ''after'' after ''days''.

§ 1313.34 [Corrected]

2. On page 32465, in the second column, in § 1313.34(a), in the fifth line, insert ''four years; declaration forms for'' after ''for''.

§ 1316.02 [Corrected]

3. On the same page, in the third column, in § 1316.02(c)(2), in the first line, ''factors,'' should read ''factories,''.

BILLING CODE 1505–01–D

Federal Register

Thursday
July 6, 1995

Part II

Department of Health and Human Services

Public Health Service

42 CFR Part 52b

National Institutes of Health Construction Grants; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 52b

RIN 0905–AD49

National Institutes of Health Construction Grants

AGENCY: Public Health Service, Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Institutes of Health (NIH) proposes to revise its regulations governing construction grants for the purpose of making them applicable to all NIH financial assistance programs with construction grant authority, including programs transferred to NIH by the ADAMHA Reorganization Act and two new programs authorized by the National Institutes of Health Revitalization Act of 1993. The regulations are also being revised for the purpose of correcting Public Health Service (PHS) Act section numbers referenced in the regulations and adding new administrative and technical requirements for the awarding of these grants and cost recovery procedures for the recovery of grant funds for facilities no longer used for biomedical research purposes.

DATES: Comments on these proposed regulations must be received on or before September 5, 1995 in order to ensure that NIH will be able to consider the comments in preparing the final rule.

ADDRESSES: Comments should be sent to: Mr. Jerry E. Moore, NIH Regulatory Affairs Officer, National Institutes of Health, Building 31, Room 1B25, 31 Center DR MSC 2075, 9000 Rockville Pike, Bethesda, Maryland 20892–2340.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry E. Moore, NIH Regulatory Affairs Officer, at the address above, or telephone (301) 496–4606 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under the Public Health Service (PHS) Act, as amended (42 U.S.C. 201 et seq.), construction or modernization grant authority exists in sections 413(b)(6)(B) and 414(b) for the National Cancer Institute (construction grants); sections 421(b)(2)(B) and 422(c)(3) for the National Heart, Lung, and Blood Institute (construction grants); section 441(a) for the National Institute of Arthritis and Musculoskeletal and Skin Diseases (modernization grants); section 455 for the National Eye Institute (construction grants); section 464C(a) for the National Institute on Deafness and Other Communication Disorders (modernization grants); section 464P(b)(3) for the National Institute on Drug Abuse (construction grants); section 481A(a) for the Director of NIH, acting through the Director of the National Center for Research Resources (construction and modernization grants); section 481B(a) for the Director of NIH (construction grants); and section 2354(a)(5)(B) for NIH AIDS research programs (construction grants).

NIH proposes to revise the existing regulations at 42 CFR part 52b (National Cancer Institute Construction Grants) to make them applicable to all NIH financial assistance programs with construction or modernization grant authority. Part 52b would be retitled and the authority citation would be amended to add the additional construction and modernization grant authorities. Sections 52b.2 and 52.3 would be revised in their entirety. Section 52b.4 would be amended by revising paragraph (d) to reference Executive Order 12372 and adding a new paragraph (e) regarding the protection of Historical Properties listed on National and State Historical Registers. Section 52b.5 would be revised in its entirety. Sections 52b.6, 52b.7, 52b.8, 52b.9, 52b.10, and 52b.11 would be revised and moved to §§ 52b.14, 52b.6, 52b.10, 52b.11, 52b.13 and 52b.12, respectively. The PHS Act sections referenced in the regulations would be corrected. Three new sections would be added to part 52b. A new § 52b.7 would be added specifying facility usage requirements; a new § 52b.8 would be added concerning NIH monitoring of the usage of biomedical research facilities constructed with Federal funds; and a new § 52b.9 would be added concerning procedures to recover Federal funds for facilities that cease to be used for biomedical research purposes. Section 52b.10 would add new requirements relating to the recording of notice of Federal interest and the purchasing of insurance. Section 52b.12 concerning minimal requirements of construction and equipment would be revised to incorporate by reference additional published standards relating to facility design, construction, and operation standards. In accordance with section 552(a) of the Freedom of Information Act (5 U.S.C. 552) and implementing regulations, 1 CFR part 51, NIH will request the approval of the Director of the Federal Register prior to incorporating by reference any new published material in the final rule.

Section 52b.14 would be revised to cite additional HHS regulations and policies that apply to part 52b. These regulations do not apply to minor alterations and renovations that are included in applications for research project grants. Minor alterations and renovations are covered under the regulations at 42 CFR part 52. These regulations also do not cover alterations and renovations under NIH center grants. These alterations and renovations are covered under the regulations at 42 CFR part 52a. The purpose of this notice is to invite public comment on these proposed changes.

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

The following statements are provided for the information of the public.

Regulatory Impact Statement

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, requires us to prepare an analysis for any rule that meets one of the E. O. 12866 criteria for a significant regulatory action; that is, that may—

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

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

Materially alter the budgetary impact of grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

In addition, the Department prepares a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6), if the rule is expected to have a significant impact on a substantial number of small entities.

For the reasons outlined below, we do not believe this NPRM is economically significant nor do we believe that it will have a significant impact on a substantial number of small entities. In addition, this NPRM is not inconsistent with the actions of any other agency.

This NPRM would merely update internal policies and procedures of the Federal government which are used by the NIH to administer construction grants awarded under the authority set forth in section 413(b)(6)(B), 414(b), 421(b)(2)(B), 422(c)(3), 441(a), 455, 464C(a), 464P(b)(3), 481A(a), 481B(a) and 2354(a)(5)(B) of the PHS Act. These grants do not have significant economic or policy impact on a broad cross-section of the public. Furthermore, the revised regulations would only affect the limited number of public or private nonprofit agencies of institutions which are interested in participating in the construction grant program. No agency or institution is required to participate in the program. The revised regulations include no standards or requirements which would burden small entities.

For these same reasons, the Secretary certifies this NPRM will not have a significant economic impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis, as defined under the Regulatory Flexibility Act of 1980, is not required.

Paperwork Reduction Act

This proposed rule contains information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collection requirements in this proposed rule are presented below with an estimated annual burden. The information collection requirements contained in these regulations have been submitted to OMB for review. Other organizations and individuals desiring to submit comments on the information collection requirements should send their comments to (1) Dr. Charles MacKay, Project Clearance Officer, National Institutes of Health, Building 31, Room 5B33, 9000 Rockville Pike, Bethesda, Maryland 20892–2174, and (2) the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 10235, 725 17th St., N.W., Washington, D.C. 20503. Attention: Desk Officer for the National Institutes of Health, Department of Health and Human Services. After OMB approval is obtained, the OMB control number will be published in the **Federal Register**.

Title: NIH Construction Grants.

Description: The information collections will be used by NIH to evaluate grant applications, oversee the transfer of the title of a constructed facility, and monitor the use being made of a constructed facility.

Respondent Description: Public or private nonprofit agencies or institutions.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
Reporting:				
§52b.9(b)	1	1	.50	.50
§52b.10(f)	15	1	1	15
§52b.10(g)	30	12	1	†360
§52b.11(b)	100	1	1	* (100)
Subtotal				375.5
Recordkeeping:				
§52b.10(g)	30	260	1	†7800
Total				8175.5

* This burden is approved under OMB Approval Number 0937–0189
† Based on an average of 30 active grants in the construction phase.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbered programs affected by these proposed regulations are:

93.392—Cancer Construction
93.131—Shared Research Facilities for Heart, Lung, and Blood Diseases
93.846—Arthritis, Musculoskeletal and Skin Diseases Research

List of Subjects in Part 52b

AIDS research facilities construction; Basic biomedical research laboratory facilities construction; Cancer research facilities construction; Clinical biomedical and behavioral research facilities construction; Grants—construction; Incorporation by reference; Primate research facilities construction; Research facilities construction for AIDS; Research facilities construction for arthritis, musculoskeletal and skin diseases; Research facilities construction for heart, lung, and blood diseases; Vision research facilities construction.

Dated: December 28, 1994.

Philip R. Lee,

Assistant Secretary for Health.

Approved: June 19, 1995.

Donna E. Shalala,

Secretary.

For reasons set out in the preamble, it is proposed to revise part 52b of title 42 of the Code of Federal Regulations to read as set forth below.

PART 52b—NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Sec.

Authority: 42 U.S.C. 216, 285a–2, 285a–3, 285b–3, 285b–4, 285d–6, 285i, 285m–3, 285o–4, 287a–2, 287a–3, 300cc–41.

§ 52b.1 To what programs do these regulations apply?

The provisions of this part apply to grants authorized by: section 413(b)(6)(B) of the Act for construction or renovation of basic cancer research laboratory facilities, including clinical facilities; section 414(b) of the Act for the construction of centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, control, and treatment methods for cancer; section 421(b)(2)(B) of the Act for the construction or renovation of heart, blood vessel, lung, and blood disease and blood resource laboratories, research, training, and other facilities as the Director determines necessary; section 422(c)(3) of the Act for the construction of centers for basic and clinical research into, training in, and demonstration of, the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases; section 441(a) of the Act for the modernization of existing buildings to serve as centers for basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of and rehabilitation from arthritis and musculoskeletal diseases, including research into implantable biomaterials and biomechanical and other orthopedic procedures; section 455 of the Act for the construction of vision research facilities; section 464C(a) for the modernization of existing buildings to serve as multipurpose centers for basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of disorders of hearing and other communication processes including research into rehabilitative aids, implantable biomaterials, auditory speech processors, speech production devices, and other otolaryngologic procedures; section 464P(b)(3) of the Act for the construction of pharmacotherapeutic research centers, laboratories, and other necessary facilities and equipment to conduct research on the development and use of medications to treat drug addiction; section 481A(a) of the Act for the expansion, remodeling or alteration of existing research facilities, or the construction of new research facilities; section 481B(a) of the Act for the construction or renovation of regional centers for research on primates; and section 2354(a)(5)(B) of the Act for the construction of facilities for acquired immunodeficiency syndrome (AIDS) research. The provisions of this part do not apply to minor alteration and renovation that is included in the application for a research project grant. This type of alteration and renovation is covered under the regulations at 42 CFR part 52.

§ 52b.2 Definitions.

As used in this part:

Act means the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*).

Construction means the construction of new buildings or the modernization of, or the completion of shell space in, existing buildings (including the installation of fixed equipment), but excluding the cost of land acquisition and off-site improvements.

Construction grant means funds awarded for construction in accordance with the applicable provisions of the Act and with this part.

Director means the director of an NIH national research institute, center, or other component of NIH, authorized to award grants for construction under the applicable provisions of the Act, and any official to whom the authority involved is delegated.

Federal share with respect to any construction project means the proportion, expressed as a percentage, of the cost of the project to be paid by a grant award under the Act.

HHS, DHHS, and *Department* mean the Department of Health and Human Services.

Institute means any national research institute, center, or other agency of the National Institutes of Health as set forth in or established by the Secretary under section 401 of the Act.

Modernization means the alteration, renovation, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment necessary to make the building suitable for use for the purposes of the particular program.

NIH means the National Institutes of Health and its organizational components that award grants.

Nonprofit as applied to any agency or institution means an agency or institution which is a corporation or an association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

Project means the particular construction activity which is supported by a grant under this part.

Secretary means the Secretary of Health and Human Services and any official to whom the authority involved may be delegated.

§ 52b.3 Who is eligible to apply?

In order to be eligible for a construction grant under this part, the applicant must:

(a) Be a public or private nonprofit agency or institution;

(b) Be located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the successor States of the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); and

(c) Meet any additional eligibility criteria specified in the applicable provisions of the Act.

§ 52b.4 How to apply.

Applications for construction grants under this part shall be made in such form and at such times as the Secretary may specify.

§ 52b.5 How will NIH evaluate applications?

(a) In evaluating and approving applications for construction grants under this part, the Director shall take into account, among other pertinent factors, the following:

(1) The priority score,

(2) The relevance of the project for which construction is proposed to the objectives and priorities of the particular statutory program under the Act,

(3) The scientific merit of the research program activities which will be carried out in the proposed facility,

(4) The scientific or professional standing or reputation of the applicant and of its existing or proposed officers and research staff,

(5) The availability, by affiliation, or other association, of other scientific or health personnel and facilities to the extent necessary to carry out effectively the program proposed for the facility, including the adequacy of an acceptable biohazard control and containment program when warranted,

(6) The need for the facility and its total effects on similar or related facilities in the locale, and the need to accomplish appropriate geographic distribution of similar facilities, and

(7) The financial need of the applicant.

(b) The priority score of the application shall be based, among other pertinent factors, on the following criteria:

(1) The scientific merit of the total program and its component parts to be carried out in the facility,

(2) The administrative and leadership capabilities of the applicant's officers and staff,

(3) The organization of the applicant's research program and its relationship with the overall institutional settings,

(4) The anticipated effect of the project on other relevant research programs and facilities in the geographic area, and nation-wide,

(5) The need for the project or additional space, and

(6) The project cost and design.

§ 52b.6 What is the rate of Federal financial participation?

(a) Unless otherwise specified in statute, the rate of Federal participation in a construction project supported by a grant under this part shall not be more than 50 percent of the necessary allowable costs of construction as determined by the Director, except that when the Director finds good cause for waiving this limitation, the amount of the construction grant may be more than 50 percent of the necessary allowable costs of construction.

(b) Subject to paragraph (a) of this section, the Director shall set the actual rate of Federal financial participation in the necessary allowable costs of construction taking into consideration the most effective use of available Federal funds to further the purposes of the applicable provisions of the Act.

§ 52b.7 How is the grantee obligated to use the facility?

(a) The grantee shall use the facility (or that portion of the facility supported by a grant under this part) for its originally authorized purpose so long as needed for that purpose, unless that grantee obtains advance written approval from the Director to use the facility for another purpose. Use for other purposes shall be limited to, in order of priority:

(1) Projects or programs supported by other Federal grants or assistance agreements,

(2) Activities not supported by other Federal grants or assistance agreements, but whose purposes are consistent with those of the legislation under which the original grant was made.

(b) The Director, in determining whether to approve an alternative use of the facility, shall take into consideration the extent to which:

(1) the facility will be devoted by the grantee or other owner to a use described in paragraph (a)(1) or (2) of this section; or

(2) there are reasonable assurances that for the remainder of the useful life of the facility, alternative facilities not previously used for NIH supported research will be utilized for this purpose and are substantially equivalent in nature and extent for these purposes.

(c) *Sale, transfer, or change in use; general.* Approval may be requested from the Director to transfer title to a third party eligible under § 52b.3 for continued use for authorized purposes in accordance with paragraphs (a) and (b) of this section. If approval is permissible under the Act or other Federal statute and is granted, the terms of the transfer shall provide that the transferee shall assume all the rights and obligations of the transferor set forth in 45 CFR part 74, subpart O, or other terms of the grant.

§ 52b.8 How will NIH monitor the use of facilities constructed with Federal funds?

NIH may monitor the use of each facility constructed with funds awarded under this part to ensure its continued use for the original authorized research purpose, by means of requesting periodic facility use certifications or reports, site visits, and other appropriate means.

§ 52b.9 What is the right of the United States to recover Federal funds when facilities are not used for research or are transferred?

(a) If, during its useful life, a facility supported by a construction grant under this part ceases to be used for the particular biomedical research or training purposes for which it was constructed (or alternate use authorized under § 52b.7(a)), or the grantee sells or decides to sell or transfer title to an entity ineligible for a grant under § 52b.3, the grantee shall request disposition instructions from NIH. Those instructions will provide for one of the following alternatives:

(1) The facility may be sold and the grantee or transferee shall pay to the United States an amount computed by multiplying the Federal share of the facility times the proceeds from the sale (after deducting the actual and reasonable selling and fix-up expenses, if any, from the sales proceeds), plus interest, if any, as may be allowed by law. Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

(2) The grantee may retain title and shall pay to the United States an amount computed by multiplying the market value of the facility by the Federal share of the facility.

(3) The grantee shall transfer the title to either the United States or to an eligible non-Federal party approved by the Director. The grantee shall be entitled to be paid an amount computed by multiplying the market value of the facility by the non-Federal share of the facility.

(b) The transferor of a facility which is sold or transferred, or the owner of a facility the use of which has changed, as described in paragraph (a) of this section, shall provide the Director written notice of the sale, transfer, or change not later than 30 days from the date on which the sale, transfer, or change occurs.

(c) The Secretary may waive the recovery rights of the United States set forth in paragraph (a) of this section with respect to a facility if the Secretary determines that there is good cause for waiving the rights with respect to the particular facility. In determining whether there is good cause, the Secretary shall take into consideration the extent to which (and the grantee or transferee provides reasonable assurances that):

(1) the facility will be utilized for the remainder of its useful life, in order of priority:

(i) For other health related activities consistent with the purposes of one or more of the activities of the awarding Institute authorized under title IV of the Act,

(ii) To provide training or instruction in the health fields for health professionals or health related information programs for the public, or

(iii) Other health related purposes consistent with one or more purposes authorized under the Act; or,

(2) facilities of substantially comparable value or utility will be utilized for the remainder of the facility's useful life to carry out the biomedical research or training purpose for which the grant was awarded. Alternative facilities (and the grantee) shall be subject to the same use obligation and the other requirements imposed on the grantee by this part.

(d) The right of recovery of the United States set forth in paragraph (a) of this section shall not, prior to judgment, constitute a lien on any facility with respect to which funds have been paid under this part.

(e) Any amount recovered under this section will be paid to the awarding institute for disposition as required by law.

§ 52b.10 What are the terms and conditions of awards?

In addition to any other requirement imposed by law or determined by the Director to be reasonably necessary with respect to any particular grant to fulfill the purposes of the grant, each construction grant shall be subject to the terms and conditions, and the grantee shall provide the assurances, required by this section, supported by such documentation as the Director may

reasonably require. The Director may, by general policy or for good cause shown by an applicant, approve exceptions to these terms and conditions or assurances where the Director finds that the exceptions are consistent with the applicable provision of the Act and the purposes of the particular program:

(a) *Title.* That the applicant has a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way sufficient to assure for the estimated useful life of the facility, as determined by the Director, undisturbed use and possession for the purpose of the construction and operation of the facility.

(b) *Plans and specifications.* That approval by the Director of the final working drawings, specifications, and cost estimate shall be obtained before the project is advertised or placed on the market for bidding. The approval shall include a determination by the Director that the final plans and specifications conform to the minimum standards of construction and equipment as set forth in § 52b.12 of this part.

(c) *Relocation assistance.* That in the case of a public applicant with an approved project which involves the displacement of persons or businesses on or after January 4, 1971, the applicant will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and the applicable regulations issued under that Act (45 CFR part 15).

(d) *Approval of changes in estimated cost.* That the applicant will not enter into any construction contract or contracts for the project or a part thereof, the cost of which is in excess of the estimated cost approved in the terms of an award for that portion of the work covered by the plans and specifications, without the prior approval of the Director.

(e) *Completion responsibility.* That the applicant will construct the project, or cause it to be constructed, to final completion in accordance with the grant application, the terms of award, and the approved plans and specifications.

(f) *Construction inspection.* Prior to the start of construction, the grantee shall submit an approved copy of the construction schedule (critical path method) to the Director.

(g) *Construction management.* That the applicant will provide and maintain competent and adequate construction management services for inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications. Construction management services will also include daily construction logs and monthly status reports which will be maintained at the job site and shall be submitted to the Director at the time and in the form and manner as the Director may prescribe.

(h) *Non-Federal share.* That sufficient funds are available to meet the non-Federal share of the costs of constructing the facility.

(i) *Funds for operation.* That sufficient funds will be available when construction is completed for effective use of the facility for the purposes for which it is being constructed.

(j) *Inspection.* That the Director and the Director's representatives shall have access at all reasonable times to all work during any stage of construction and the contractor shall provide proper facilities for this access and inspection.

(k) *Accessibility to handicapped.* That the facility shall be designed to comply with the Federal Accessibility Standards (41 CFR subpart 101–19.6), as modified by other standards prescribed by the Director or the Administrator of General Services. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(l) *Notice of Federal interest.* The grantee shall record a Notice of Federal Interest in the appropriate official records of the jurisdiction in which the property is located.

(m) *Title insurance.* The grantee shall purchase a title insurance policy unless a legal opinion has been provided which certifies that the grantee institution has fee simple title to the site free and clear of all liens, easements, rights-of-way, and any other adverse interests which would encumber the project. A waiver to this requirement may be obtained if the grantee is adequately self-insured against the risks involved.

(n) *Physical destruction insurance.* At the time construction is completed or at the time of beneficial occupancy, whichever comes first, the grantee shall purchase an insurance policy which insures the facility at the full appraised value of the property using State certified appraisers. The insurance policy must protect the property from total or partial physical destruction and must be maintained throughout the period of Federal interest. A waiver to this requirement may be obtained if the grantee is adequately self-insured against the risks involved.

§ 52b.11 What are the requirements for acquisition and modernization of existing facilities?

In addition to the other requirements of this part, the following requirements are applicable to the acquisition and modernization of existing facilities.

(a) *Minimum standards of construction and equipment.* A determination by the Director that the facility conforms (or upon completion of any necessary construction will conform) to the minimum standards of construction and equipment as set forth in § 52b.12 of this part, shall be obtained before entering into a final or unconditional contract for the acquisition and/or remodeling of facilities. Where the Director finds that exceptions to or modifications of construction or equipment would be consistent with the purposes of the applicable section of the Act under which the acquisition is supported, the Director may authorize the exceptions or modifications.

(b) *Estimated cost of acquisition and remodeling: Suitability of facility.* Each application for a project involving the acquisition of existing facilities shall include in the detailed estimates of the costs of the project, the cost of acquiring these facilities, and any cost of remodeling, renovating or altering the facilities to serve the purposes for which they are acquired. The application shall demonstrate to the satisfaction of the Director that the architectural, mechanical, electrical, plumbing, structural, and other pertinent features of the facility, as modified by any proposed expansion, remodeling, renovation, or alteration, will be clearly suitable for the purposes of the applicable sections of the Act.

(c) *Bona fide sale.* Grant awards for the acquisition of existing facilities shall be subject to the condition that the acquisition constitutes a bona fide sale involving an actual cost to the applicant and will result in additional or improved facilities for purposes of the applicable provisions of the Act.

(d) *Facility which has previously received a Federal grant.* No grant for the acquisition or modernization of a facility which has previously received a Federal grant for construction, acquisition, or equipment shall serve either to reduce or restrict the liability of the applicant or any other transferor or transferee from any obligation of accountability imposed by the Federal Government by reason of the prior grant.

§ 52b.12 What are the minimum requirements for construction and equipment?

In addition to being subject to other regulations and policies referred to in § 52b.14, the standards set forth in this section have been determined by the Director to constitute minimum requirements for construction and equipment, including the expansion, remodeling, renovation, or alteration of existing buildings, and these standards as may be amended, or any revisions or successors of these standards, shall apply to all projects for which Federal assistance is requested under the applicable sections of the Act. In accordance with 5 U.S.C. 552(a)(1), the publications to which reference is made in this section, unless otherwise indicated, are hereby incorporated by reference and made a part of the regulations in this part. The Director may for good cause shown approve plans and specifications which contain deviations from the requirements prescribed, if the Director is satisfied that the purposes of the requirements have been fulfilled. In addition to these requirements, each project shall meet the requirements of State and/or local codes and ordinances relating to construction.

(a) *Mandatory design and construction standards.* The facility design and construction shall comply with the following standards:

(1) ''Guidelines for Construction and Equipment for Hospital and Medical Facilities'' (current edition). American Institute of Architects, 1735 New York Avenue, NW., Washington, DC 20006.

(2) ''Laboratories Chapter, American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Handbook'' (current edition). ASHRAE, 1791 Tullie Circle, NE., Atlanta, Georgia 30329.

(3) ''Uniform Federal Accessibility Standards,'' Federal Standard 795 (current edition). General Services Administration.

(4) Seismic safety for federally assisted construction—Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.) and Executive Order 12699, ''Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction,'' dated January 5, 1990. The Executive Order requires that, effective January 5, 1993, new federally assisted or regulated buildings are to be designed and constructed using appropriate seismic standards. The latest edition of the model codes listed below provide a level of seismic safety that is considered appropriate for implementing E.O. 12699 and are applicable to all federally assisted construction, depending on geographical location. State, county, or local jurisdictional building ordinances adopting and enforcing these model codes in their entirety, without significant revisions in the direction of less seismic safety, are also acceptable.

(i) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(ii) 1992 Supplement to the Building Officials and Code Administrators International (BOCA) National Building Code;

(iii) 1992 Amendments to the Southern Building Code Congress (SBCC) Standard Building Code; and

(iv) ''Recommended Lateral Force Requirements and Commentary'' of the Seismology Committee, Structural Engineers Association of California.

(5) ''Life Safety Code'' (current edition). National Fire Protection Association (NFPA) Publication 101. NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269.

(6) ''Standards on Fire Protection for Laboratories Using Chemicals'' (current edition). National Fire Protection Association (NFPA) Publication No. 45. NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269.

(7) ''Prudent Practices for Handling Hazardous Chemicals in Laboratories.'' (National Academy Press (1981)) National Research Council, 2001 Wisconsin Avenue, NW., Washington, DC 20007.

(8) ''National Sanitation Foundation Standard No. 49 for Class II (Laminar Flow) Biohazard Cabinetry'' (current edition). National Sanitation Foundation (NSF), 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106.

(9) ''Industrial Ventilation'' (current edition). American Conference of Governmental Industrial Hygienists, 6500 Glenwood Avenue, Cincinnati, Ohio 45211.

(10) ''Health Care Facilities Handbook'' (current edition). National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.

(11) ''Standards for Nonflammable Medical Gas Systems'' (current edition). National Fire Protection Association (NFPA) Publication No. 99. NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269.

(12) ''National Electric Code'' (current edition). National Fire Protection Association (NFPA) Publication No. 70. NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269.

(13) ''Guide for the Care and Use of Laboratory Animals'' (current edition). DHHS Publication No. (NIH) 85–23.

(14) ''Laboratory Ventilation'' standards, ANSI/AIHA (current edition).

(15) ''Design Policy and Guidelines'' (current edition). Division of Engineering Services, National Institutes of Health.

(b) [Reserved]

§ 52b.13 Additional conditions.

The Director may with respect to any grant award impose additional conditions consistent with the regulations of this part prior to or at the time of any award when in the Director's judgment the conditions are necessary to assure or protect advancement of the approved project, the purposes of the applicable provisions of the Act, or the conservation of grant funds.

§ 52b.14 Other Federal regulations and policies that apply.

Several other Federal regulations and policies apply to grants under this part. These include, but are not necessarily limited to:

(a) *Regulations.*

9 CFR part 3—Animal welfare; standards.
29 CFR part 1910—Occupational safety and health standards; § 1910.1450—Occupational exposure to hazardous chemicals in laboratories.
36 CFR part 1190—Minimum guidelines and requirements for accessible design.
42 CFR part 50, subpart A—Responsibility of PHS awardee and applicant institutions for dealing with and reporting possible misconduct in science.
42 CFR part 50, subpart D—Public Health Service grant appeals procedure.
45 CFR part 16—Procedures of the Departmental Grant Appeals Board.
45 CFR part 46—Protection of human subjects.
45 CFR part 74—Administration of grants.
45 CFR part 75—Informal grant appeals procedures.
45 CFR part 76—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).
45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of title VI of the Civil Rights Act of 1964.
45 CFR part 81—Practice and procedure for hearings under part 80 of this title.
45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving Federal financial assistance.
45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.
45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance.
45 CFR part 93—New restrictions on lobbying.

45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and local governments.

(b) *Policies.*

(1) 51 FR 16958 (May 7, 1986)—NIH Guidelines for Research Involving Recombinant DNA Molecules. [Note: this policy is subject to changes, and interested persons should contact the Office of Recombinant DNA Activities, NIH, Suite 323, 6006 Executive Blvd., MSC 7052, BETHESDA, MD 20892–7052 (301–496–9838; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

(2) 59 FR 14508 (March 28, 1994)—NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research. [Note: this policy is subject to changes, and interested persons should contact the Office of Research on Women's Health, NIH, Room 201, Building 1, MSC 0161, BETHESDA, MD 20892–0161 (301–402–1770; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

(3) ''Public Health Service Policy on Humane Care and Use of Laboratory Animals,'' Office for Protection from Research Risks, NIH (Revised September 1986). [Note: this policy is subject to changes, and interested persons should contact the Office for Protection from Research Risks, NIH, Suite 3B01, 6100 Executive Blvd., MSC 7507, ROCKVILLE, MD 20852–7507 (301–496–7005; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

(4) ''PHS Grants Policy Statement,'' DHHS Publication No. (OASH) 94–50,000 (Rev.) April 1, 1994. [Note: this policy is subject to changes, and interested persons should contact the Grants Policy Branch, OASH, Room 17A45, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301–443–1874; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

(5)''Biosafety in Microbiological and Biomedical Laboratories.'' Centers for Disease Control and Prevention (CDCP). DHHS Publication No. (CDC) 88–8395. [Note: this policy is subject to changes, and interested persons should contact the Division of Safety, Occupational Safety and Health Branch, NIH, Room 3K04, 13 South Drive, MSC 5760, BETHESDA, MD 20892–5760 (301–496–2960; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

(6) ''NIH Guidelines for the Laboratory Use of Chemical Carcinogens.'' DHHS Publication No. (NIH) 81–2385. [Note: this policy is subject to changes, and interested persons should contact the Division of Safety, Occupational Safety and Health Branch, NIH, Room 3K04, 13 South Drive, MSC 5760, BETHESDA, MD 20892–5760 (301–496–2960; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

(7) ''Guide for the Care and Use of Laboratory Animals.'' DHHS Publication No. (NIH) 85–23. Office for Protection from Research Risks, NIH (Revised September 1986). [Note: this policy is subject to changes, and interested persons should contact the Office for Protection from Research Risks, NIH, Suite 3B01, 6100 Executive Blvd., MSC 7507, ROCKVILLE, MD 20852–7507 (301–496–7005; not a toll-free number) to obtain the current version and any amendments. There may be a charge for materials provided.]

[FR Doc. 95–15703 Filed 7–5–95; 8:45 am]
BILLING CODE 4140–01–P

Federal Register

Thursday
July 6, 1995

Part III

Department of Education

Training Personnel for the Education of Individuals With Disabilities; Notice

DEPARTMENT OF EDUCATION

Training Personnel for the Education of Individuals With Disabilities

AGENCY: Department of Education.

ACTION: Notice of waiver.

SUMMARY: The Secretary waives the requirements in EDGAR at 34 CFR 75.261(a) that generally prohibit project extensions that involve the additional obligation of Federal funds. The Secretary waives this EDGAR requirement for the National Center for Minority Special Education Research and Outreach, and the Outreach Alliance 2000 Project. The Secretary will issue continuation awards to both Centers in order to ensure the most efficient use of Federal funds.

EFFECTIVE DATE: This waiver takes effect on August 7, 1995.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, telephone: (202) 205–9099, or Victoria Ware, telephone: (202) 205–8687, U.S. Department of Education, 600 Independence Avenue, SW, Washington, DC 20202–2641. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On July 19, 1991, the Department issued a Notice Inviting Applications for New Awards under the Training Personnel for the Education of Individuals With Disabilities for Fiscal Year 1991. In this notice, the Department announced that it would make two awards for up to 48 months pursuant to section 6l0(j)(2)(C) of the Individuals With Disabilities Education Act (IDEA), which directed the Secretary to develop and implement a plan for providing outreach services to minority entities and underrepresented populations to assist them in participating more fully in the discretionary grant programs authorized in Parts C through G of IDEA.

Specifically, the Secretary advised that the Department would fund two Centers, one to provide technical assistance to the agencies, institutions, organizations, and populations identified by Congress seeking grant support for personnel preparation (Part D of the Act). The other Center was designed to provide technical assistance to the targeted entities and populations seeking support for research and the other activities authorized in Parts C, E, F, and G of the Act. The EDGAR selection criteria were used in making the selection.

The grant periods have ended for the two Centers, which are currently expending the balance of their fiscal year 1994 funds to carry out approved project activities. In order to conduct the section 610(j)(2)(C) plan activities with fiscal year 1995 support, it is necessary to either recompete the projects for one year or to issue continuation awards to the existing grantees.

Based upon the following factors, the Department believes it makes the most programmatic sense and is the most efficient use of Federal funds to issue continuation awards. However, to do so, the Department must waive the requirements in EDGAR at 34 CFR 75.261(a) that generally prohibit project extensions that involve the additional obligation of Federal funds.

Reasons

If the Department had to recompete these multi-year outreach Centers this year, the Department would wastefully expend resources for a program that might not be reauthorized. If the program is reauthorized, it may contain substantially different programmatic requirements. Such changes would require the Department to recompete the projects one year later based on the new statute.

Public Comment

On April 14, 1995, the Secretary published a notice of proposed waiver for the two centers in the **Federal Register** (60 FR 19152). In the notice of proposed waiver the Secretary invited public comments. The Secretary did not receive any comments.

Waiver

Based on the response to the notice of proposed waiver, the Secretary waives the application of 34 CFR 75.261(a) to the Part D Center authorized under Parts C, E, F, and G of the IDEA. Thus, the Department will issue one-year continuation awards to the current grantees that meet the standards for continuation in 34 CFR 75.253 and, if reauthorization is delayed past the date needed to conduct a competition for FY 1996 funds, the Department will extend the projects for a second-year continuation award, if the current grantees meet the standards for continuation awards in 34 CFR 75.253.

Paperwork Reduction Act of 1980

This waiver has been examined under the Paperwork Reduction Act of 1980 and has been found to contain no information collection requirements.

(Catalog of Federal Domestic Assistance Number 84.029, Training Personnel for the Education of Individuals With Disabilities.)

Dated: June 29, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–16477 Filed 7–5–95; 8:45 am]

BILLING CODE 4000–01–P

Thursday
July 6, 1995

Part IV

Federal Emergency Management Agency

44 CFR Part 65

Standard Flood Hazard Determination Form; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067–AC34

Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule establishes a standard form for determining whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA), whether flood insurance is required, and whether federal flood insurance is available. Use of this form will help ensure that required flood insurance coverage is purchased for buildings and mobile homes located in SFHAs, and will help federal entities for lending regulation in assuring compliance with these purchase requirements.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756, or by facsimile at (202) 646–4596 (not toll-free calls).

SUPPLEMENTARY INFORMATION: As part of its implementation of the National Flood Insurance Reform Act of 1994 (NFIRA), FEMA published a proposed rule (60 FR 17758, April 7, 1995) to establish a standard form for determining whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA), if flood insurance is required, and if federal flood insurance is available. The comment period ended officially on May 8, 1995; however, we considered comments received by May 12, 1995, in our preparation of this final rule.

This final rule addresses FEMA's requirement under 42 U.S.C. 4012a(b) to develop the Standard Flood Hazard Determination Form (SFHDF), and provides information on completing the form. The regulating agencies' rule regarding use of the form is published today in this issue of the **Federal Register**.

We received comments from 98 individuals from 34 states, as follows: 77 lenders, nine trade associations, nine map determination companies, one secondary market organization, one federal agency representative, and one unknown (no return address or signature provided). Six respondents provided a general comment concurring with the proposed form. Seventeen respondents indicated that they were generally opposed to the form, and 12 respondents indicated that the proposed form would create an added cost or burden.

The issues receiving the most number of comments were requests for the addition of borrower information (25 comments), requests to allow lenders more flexibility (21 comments), comments regarding the wording of the amount of required flood insurance (21 comments), and comments on the form's format (22 comments). FEMA met with the federal entities for lending regulation and asked for their guidance on these issues as part of the preparation of this final rule. Our responses to the comments are based on our interpretation of FEMA's authority under the NFIRA and on the guidance from the federal entities for lending regulation.

We summarize below the comments we received and our response to them.

Purpose of the Form

Additional borrower information. We received many comments asking that we add more information to the form, such as borrower information, borrower signature, current owner's name, lender's signature, life of loan coverage, property identification number, fee charged for determination, loan amount, age of structure, base flood elevation, insurance policy information, etc.

Response. The SFHDF will be completed for every loan. We chose to keep it as brief and concise as possible. In general, we did not include on the form additional items such as borrower notification, which will impact a small percentage of loans. However, we did create a space labeled ''Loan Identifier,'' which the lender may use for loan identification purposes. We enlarged the space allotted for comments. This space may be used in any manner desired.

Notification compliance. Some comments suggested that the borrower should sign the form to comply with the notification requirements.

Response. The SFHDF does *not* meet the notification requirements set forth in Sections 524 and 527 of the NFIRA. The SFHDF may be used as part of the borrower's notification; however, as directed by the NFIRA, the form is for determining whether a building or mobile home is located in an SFHA and whether flood insurance is required and if federal flood insurance is available.

Use of form. Several people asked when the form is to be used. Three respondents interpreted the NFIRA as not requiring the SFHDF if the property is not located in the SFHA.

Response. The NFIRA states that the form is to be used ''for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building is located in an area . . . having special flood hazards. . .'' We interpret this to mean that the form is to be used for all loans, not only for loans for which the building or mobile home is in the SFHA. The form will document that a determination was made for a building or mobile home, whether it is in or out of the SFHA, and whether flood insurance is required and if federal flood insurance is available.

Lender Processing and Loan Information

Format. We believe that the format of the form is efficient for use in a standard loan transaction. The form is formatted so that the loan application and lender information is consolidated at the top, followed by the flood hazard determination information.

Loan information. Many people commented that the loan number and date of loan would not be known at the time of loan application. Comments also indicated that the meaning of the date of loan was unclear, because it could be the date of application or the date of closing.

Response. We replaced the spaces labeled ''loan number'' and ''date of loan'' with one space labeled ''loan identifier.'' Use of this space is optional. Lenders may use this space to identify loan applications.

Lender Name and Identification Number (ID No.)

Several individuals indicated that the lender name and ID number provide no useful information, require extra preparation by the bank, and should be deleted. Others did not understand the purpose of the ID number, and commented that using a lender's FDIC number, credit union number, or Farm Credit System number may imply that these agencies have some responsibility in the flood hazard determination process. A mortgage banker commented that his institution does not fall into the categories defined in the instructions for Lender ID No., but they do sell loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and to the Government National Mortgage Association, with a different ID No. for each agency. This lender asked if this portion of the SFHDF could be left blank until the loan is delivered to the purchasing entity.

Response. The lender ID. No. will be transferred onto the flood insurance policy application by the insurance agent. Using the lender's ID No. does not place a responsibility for flood hazard determinations on regulating agencies or Government-sponsored enterprises.

Multiple entities. Another person indicated that multiple entities can be involved in a single transaction, and that ''at times the processing of a loan may be initiated by one entity and completed by another (or others).'' The same person suggested that the Lender ID No. be defined as relating to the entity that procured the determination and to clarify that no Lender ID No. is required in those cases where the determination is procured by an uninsured lender.

Response. The Lender ID No. for the lender involved in the funding of the loan should be recorded on the form. Only the lending institutions that are federally regulated are required to use the form.

FDIC Insurance Certificate/assigned seller-servicer numbers. One respondent asked if a lender has an FDIC Insurance Certificate Number and has an assigned seller-servicer number, which should be used.

Response. In this case, the FDIC Insurance Certificate Number should be used.

Amount of flood insurance required

Many specific comments were received on the section titled ''amount of required flood insurance,'' as follows: modify to identify the dollar amount of the loan; this section is not required by the NFIRA and should be deleted; what is the purpose of this section; this information may allow confidential information to be available to a third party performing the determination; the lender would not know the value of the building separate from the land until after the appraisal is completed; the wording should be revised to allow for the lender's prerogative to require flood insurance even if not mandated (or up to the maximum amount available under the law); specific instructions are needed to complete this section; the parenthetical phrase in the proposed form is incorrect; include amount of coverage required for personal property; to calculate the amount of flood insurance required, the lender would have to contact an insurance agent; different requirements may be necessary for second mortgages; clear guidance is needed from FEMA to mortgage lenders on this subject; secondary market investors require different amounts of insurance for their loans; the amount of required flood insurance should be included on the notice to borrower, not the SFHDF.

Response. The completion of this information is optional. Because this will not be a mandatory entry, no changes were made to the form, but the instructions were clarified. The purpose of this information is to help the lender ascertain that the required amount of flood insurance is purchased, and also to assist lenders who require more than the federal minimum amount of flood insurance. Lenders should be aware that NFIP policies do not provide coverage in excess of the value of the building/mobile home/personal property.

Electronic systems changes. Another comment received was that including the amount of required flood insurance on the form would require substantial systems changes for lenders who have flood determinations done electronically by an outside servicer.

Response. Lenders have the option of including this information on the form. Additional information regarding the form's electronic format is included under the heading ''Additional Burden'' below.

Loan amount or property value. One lender requested clarification that the amount of insurance coverage is the loan amount and not the property value.

Response. Detailed instructions for this portion have been added. See below.

Instructions

Instructions for every item. Several respondents requested that instructions be included for every item on the form.

Response. The instructions have been revised to include an explanation for each item contained on the form.

Typographical errors. Several comments referred to typographical errors that appeared in the proposed rule.

Response. We have attempted to correct all typographical errors.

Miscellaneous. One writer suggested that the reverse side of the form be used ''to explain flood hazard mapping, regulations and policies concerning both the regulation and standard FEMA flood hazard information.'' Another requested that formats be given for numeric and date fields. One respondent suggested eliminating some instructions.

Response. No change.

Structure Location and Elevation Information

Land in SFHA. Several asked what the result would be if a portion of the parcel of land is located in an identified SFHA, but the building or mobile home is not.

Response. The SFHDF is to be used to determine whether a building or mobile home is located in an identified SFHA. If a lender would like to document additional information about the parcel of land, the comments section may be used for this purpose.

Building partially in SFHA. Some asked how to indicate that a building or mobile home is partially in the SFHA and partially out.

Response. If any portion of a building or mobile home is located in an identified SFHA, the building or mobile home is considered to be in the SFHA, and flood insurance is required.

Collateral property location. Some people commented about the instructions for completing the section titled ''Collateral property address or legal description.'' They were concerned that the instructions stated ''Describe the property in sufficient detail to locate the specific building or mobile home accurately . . . ,'' and that generally this would not be possible.

Response: We revised the instructions for this item to clarify our intent. If available, a street address locating the building or mobile home is preferred. In rural areas a legal description referring to township and range lines or other coordinates may be necessary to locate a building or mobile home, because the postal address does not refer to a geographic location. We do not mean to imply that a legal description locating the building is always required.

Rural postal addresses. Regrettably, a typographical error crept into the form instructions in the proposed rule, stating ''A postal address in a rural area may be sufficient.'' The correct statement is ''A postal address in a rural area may not be sufficient.''

Space for legal description. Another person indicated that the space allotted for the legal description was insufficient.

Response. If necessary, legal descriptions may be attached to the SFHDF as a separate sheet, or included in the comments section.

Flood Hazard Determinations

The SFHDF is used for determining whether a building or mobile home is located in the SFHA shown on the National Flood Insurance Program (NFIP) map for the community, and whether flood insurance is available. FEMA expects that these determinations will be done by using a street map, plat, survey, or whatever information is needed to locate a structure on the NFIP map. Structure or ground elevation data are not required to perform such a determination. If elevation data are available for a structure and this

information indicates that the structure and surrounding ground may be above the flood elevation, the elevation data may be submitted to FEMA under the Letter of Map Amendment (LOMA)/ Letter of Map Revision (LOMR) procedures and a map revision requested to remove the structure from the designated floodplain. However, the structure officially remains in the SFHA, regardless of elevation data, until FEMA revises the designated SFHA affecting to the structure.

More than one LOMA or LOMR. Several respondents asked how to handle situations where more than one LOMA or LOMR have been issued affecting the property.

Response. The map action affecting the building or mobile home (revised panel, LOMA, or LOMR) with the most recent date must be used to make a determination for the building or mobile home.

Review of Determinations

Section 524 of the NFIRA authorizes FEMA to review flood hazard determinations. One person indicated that some readers of the NFIRA understand Section 524 ''to provide a means for obtaining a flood hazard determination directly from FEMA without the need for an outside service to track the flood maps or for the lender to maintain and analyze the flood maps.''

Response. This is not a correct interpretation. Section 524 of the NFIRA states that the borrower and lender for a loan secured by improved real estate or a mobile home may jointly request FEMA to review a determination of whether the building or mobile home is in an identified SFHA.

Section 524 authorizes a review process, whereby a disputed flood hazard determination may be jointly submitted to FEMA for a final determination on whether a building or mobile home is located in an identified SFHA. FEMA must either affirm or disapprove the existing flood hazard determination. Section 524 does not authorize FEMA to make the flood hazard determination in the first instance. A flood hazard determination review differs from a LOMA or a LOMR, in that a LOMA or LOMR revises the FIRM.; the flood hazard determination review does not.

Determination Authority and Responsibility

Several people asked who can make determinations and who is responsible for making determinations.

Response. The lender is ultimately responsible for the determination of whether a building or mobile home is in the SFHA and whether flood insurance is required. However, a third party may be used to acquire the information. In many areas, community or state officials, surveyors, appraisers, realtors, and map determination companies provide flood hazard information to lenders. These third parties may complete the form for the lender or the lender may use the information provided by the third party to complete the SFHDF. The accuracy of third party information must be guaranteed by the third party.

The lender must take the responsibility for making determinations, regardless of whether the lender actually makes the determination or acquires it from another source. Only the lender can make the determination whether flood insurance is required for a loan. The NFIRA states that the lender may provide for the acquisition or determination of flood hazard information to be made by a person other than the lender only to the extent such person guarantees the accuracy of the information.

Third Party Guarantee

Nine comments requested that space be allotted on the form for a guarantee for use by the party making the determination.

Response: As stated earlier, we intentionally limited the amount of information contained on the form. The NFIRA does not mandate a guarantee in the contents of the form. The law states that banks may provide for the acquisition or determination of information regarding special flood hazards to be made by a party other than the lender only to the extent such person guarantees the accuracy of the information. Many services are provided to the lending community in the course of a loan application. The information provided is generally guaranteed by a contract for services or information, or because an individual is licensed or has expertise in a particular field. The guarantee for a flood hazard determination performed by a third party is based on the lender's needs and negotiations between the third party and the lender. This is considered standard business practice.

Community Participation in the NFIP

Some comments suggested that the community's participation status be included in the form, because that affects the amount of available flood insurance.

Response. We included a space on the form for indicating whether the community participates in the Regular or Emergency Program of the NFIP.

Unmapped, Non-participating, and Non-identified Communities

Many questions were asked about unmapped or non-participating communities, as well as communities not identified by the NFIP as being floodprone.

Non-participating communities. Non-participating communities may still have NFIP maps; if so, the NFIP community jurisdiction and NFIP map information must be completed.

Unmapped communities. If no NFIP map is in effect for the location where the building or mobile home is located, check the ''No NFIP Map'' box.

NFIP community number. Not every non-participating community in the United States has an NFIP community number; if no NFIP community number exists, specify ''none'' for ''NFIP Community Number.'' The instructions have been clarified for these last two issues.

Determining whether community participates in the NFIP. One person asked: If a mortgaged property is located in a flood zone, but the community is not currently participating in the NFIP, how does a lender learn if or when a community becomes a participant?

Response. FEMA has community status information available and is in the process of centralizing the information and making it available through a 1–800 number.

Federal disaster assistance/non-participating community. If a mortgaged residence is located in an identified special flood area, but the community is not participating in the NFIP, will the property be eligible for federal disaster assistance if the borrower purchases flood insurance?

Response. Structures located in communities not participating in the NFIP are not eligible for Federal flood insurance, but might find privately placed flood insurance. Even if the borrower purchases flood insurance through the private insurance market, individual and family grants cannot be made for acquisition or construction purposes where the structure to which the grant assistance relates is located in a designated special flood hazard area, unless the community in which the structure is located agrees to participate in the NFIP within 6 months after the declared disaster date.

Coastal Barrier Resources System (CBRS)

CBRS determinations. Some writers asked that the form be modified to release the party making the

determination from the obligation of determining the date of construction or substantial improvements to a structure located in the CBRS.

Response. The form does not require the date of construction or substantial improvement for structures. The Coastal Barrier Resources Act of 1982 specifically restricts Federal financial assistance (including Federal flood insurance) for structures that are built or substantially improved after the CBRS designation date. Although FEMA shows CBRS areas on the NFIP maps in cooperation with the U.S. Fish and Wildlife Service, FEMA is not able to provide the date of construction or substantial improvement for specific structures. This information must therefore be procured by some other means, such as by contacting the property assessment branch of a community's tax department.

Space for CBRS information. We were also asked to provide a place on the form to indicate the date of construction or substantial improvement of a structure located within the CBRS.

Response. The user may add this information in the comments section of the SFHDF.

Prudent CBRS practice. A lender advised that it would always be prudent for lenders to know whether a dwelling is located within a CBRS area due to the additional risk that they may be accepting in making the loan.

Response. We agree, and revised the form so that CBRS information and the CBRS designation date (which is readily available on the NFIP map) may be indicated, if applicable.

Form Format

The comments summarized below concern the form layout and composition. We took these comments into consideration in our final form design, accepting some, but not all, of the recommendations.

Order of sections. One comment pointed out that the flood hazard determination form could not be completed without first completing the Community Jurisdiction and NFIP data, and suggested that we reorganize the order of these sections. Another suggested the order of Sections I and II be reversed.

Response. We made minor changes in the order.

Notes. Eight people commented on the notes contained on the form. Some suggested clarifications to the note regarding the NFIRA and the note regarding the basis of determination. Some suggested deleting the notes.

Response. We deleted one note and revised the other based on these comments.

Additional space. Several individuals asked that additional space be given for certain entries, including the lender's name, the determination, and the collateral description.

Response. Additional space is provided for lender name and the collateral property address.

Form name. Three people suggested that the title of the form be changed to ''Standard Flood Hazard Determination Form'', ''Standard Notice of Flood Hazard Determination,'' and ''Standard Flood Hazard Determination Report (Flood Hazards).''

Response. We changed the name to ''Standard Flood Hazard Determination Form''.

Original or update. One writer suggested that a space be included to indicate if the form is an original or an update.

Response. This comment concerns the use of the form, which is outside FEMA's authority.

Other suggestions.

Another person suggested deleting the note at the top of the form that states ''see reverse side for instructions.''

Response. The instructions will now be attached to the form.

The same person suggested that the determination section of the SFHDF be deleted, and suggested that the yes/no approach to the determination section be replaced with the choice of two responses. This person also suggested that the requirement for the name of the determination preparer be deleted ''because the data is unnecessary and inappropriate in the context of the business environment.''

Response. We retained the determination section, with very minor changes. The name of the individual preparing the determination is not required.

One lender suggested that ''Collateral'' be expanded to include personal property.

Response. This has been included.

Five people commented that the paperwork burden disclosure notice uses up much valuable space. Four suggested moving it to the instructions side of the form or to an appendix.

Response. The paperwork burden disclosure notice has been moved to the instructions.

Another person asked that the NFIP Flood Map Distribution Center's Program Status Code and Date for the community be added.

Response. We kept the form as simple as possible. These types of codes may be used in the comments section.

One writer asked that references to building/mobile home be changed to building/improvements/mobile home.

Response. The reference has been changed to building/mobile home/personal property.

Additional Burden

Several comments indicated that the SFHDF causes an added burden, results in additional costs, and is a duplication of federal forms.

Response. The National Flood Insurance Reform Act itself requires the form. The form standardizes the collection of information that has been required by law since 1973, and will replace a number of different forms previously used. We tried to simplify the form to the greatest extent possible. Once lenders, regulators and other users gain experience with the form, we anticipate that its common use across different lending and regulatory venues will prove useful.

Changes to existing systems. Many wrote to indicate that they were already complying with the law and that it would be an inconvenience and additional burden for them to redo their existing system to include this form. They suggested that the form should establish data content rather than dictate the format of the data. Another suggested an approval process by which flood determination vendors submit a proposed form to FEMA for approval.

Response. It is clearly the intent of the law for FEMA to develop a standard form for determining and recording the results of the determination of whether a building or mobile home is located in an SFHA. The current lack of consistency in this area was the impetus behind this portion of the NFIRA. Additional information may be attached to or included on the comments section of the SFHDF.

Electronic format. Three people commented on the use of the form in electronic format. FEMA will assist in development of an electronic data interchange version of the form, involving our industry partners and using national standards. However, before the electronic format can be developed, we needed to develop the paper version of the form. We discussed this issue with the federal entities for lending regulation, and together we decided that if an electronic format is used, the format and exact layout of the SFHDF is not required, but the fields and elements listed on the form are required. Any electronic format used by lenders must contain all mandatory fields indicated on the SFHDF.

Promulgate Concurrent Regulations on Form and Its Use

Three people commented that the regulations regarding the use of the SFHDF and the SFHDF itself be published at the same time.

Response. This final rule and the regulations issued by the federal entities for lending regulation regarding the use of the SFHDF are published today concurrently.

Flood Insurance Availability

A lender wrote regarding the instructions for the section titled ''Federal Flood Insurance Availability.'' The statement in the instructions is ''to obtain federal flood insurance, provide a copy of this completed form to an insurance agent.'' The lender did not feel that this was the most appropriate manner in which a customer should be directed to obtain flood insurance.

Response. This form provides most of information that an insurance agent needs to write a flood insurance policy, so having a copy of the form would be useful to the customer. We revised the wording on the instructions to include the word ''may,'' to make the direction optional.

Completion of sections. Several respondents indicated that ''Federal Flood Insurance Availability'' should always be completed, not simply for buildings or mobile homes located in an identified SFHA. Some lenders will require flood insurance irrespective of the mandatory purchase requirement, and this information would be useful to them.

Response. We revised the form to remove the option of only completing some of the sections.

Section name. A trade association representative indicated that ''Federal Flood Insurance Availability'' should be renamed ''Participating/Non-participating Community''. This person further stated that our titling of this section introduces confusion into the purpose of the section.

Response. Determining whether federal flood insurance is available is one of the purposes of the form. There are other factors besides participation and non-participation (i.e., location in the CBRS) that impact the availability of federal flood insurance. No change has been made to the title of this section.

Clarification of Determination Section. One person suggested deleting the final two sentences contained in the Determination section regarding flood insurance requirements, because these statements may preclude the lender's option to require flood insurance if the collateral property is not within an identified SFHA. Another suggested that the wording be revised from ''If yes, flood insurance may be required * * *.,'' to ''If yes, flood insurance will be required * * *.''

Response. We revised the form to state, ''If yes, flood insurance is required * * *.'' The form presents the minimum federal requirements regarding the purchase of flood insurance, and does not preclude a lender from exceeding the minimum federal requirements. Lenders should be aware that NFIP policies do not provide coverage in excess of the value of the building/mobile home/personal property.

Multiple Buildings and Condominiums

Multiple buildings/single property. Eleven people asked that no separate form be required for a property that contains multiple buildings, and suggested that a schedule be attached for properties that contain several buildings.

Response. We agree that the SFHDF could be completed for the principal structure on a parcel of land, and a schedule attached for any additional buildings (used as collateral for a loan) located on the parcel. This schedule should be referred to in the comments section of the SFHDF. The instructions have been revised to reflect these procedures. Even though the determination can be documented in this manner, a separate flood insurance policy will be necessary for each building.

Condominiums. One person asked that the form be enhanced for use for condominiums.

Response. Similar to what has been described above for multiple buildings, information regarding a condominium structure could be attached to the form and referred to in the comments section.

Miscellaneous Comments

One information source. One person asked that all required information be available from one source.

Response. FEMA is establishing a 1–800 number to provide information regarding the NFIP.

Flood maps. A lender asked that township and range lines be added to NFIP maps for rural area, and stated that the latitude and longitude should be used in determining the location of a property.

Response. FEMA agrees that both of these items are useful tools in aiding flood hazard determinations and has initiated an effort to digitize FIRMs. The use of digital FIRM information together with coordinates such as latitude and longitude will assist in performing flood hazard determinations.

Community jurisdiction. One lender commented that it is unclear from the instructions how a lender determines which community has land-use jurisdiction for a parcel of land, and suggested that FEMA follow the map data in this instance as well.

Response. This issue would impact a lender only when adjoining communities have differing NFIP participation status; otherwise, flood insurance availability is unaffected. Nevertheless, land-use jurisdiction is determined by which community has authority to adopt and enforce floodplain management regulations for the structure on question.

National Environmental Policy Act

This final rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation, certifies that this rule would not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it would not be expected (1) to have significant secondary or incidental effects on a substantial number of small entities, nor (2) to create any additional burden on small entities. Moreover, establishing the SFHDF is required by the National Flood Insurance Reform Act of 1994, 42 U.S.C. 4012a. A regulatory flexibility analysis has not been prepared.

Regulatory Planning and Review

This final rule is not a significant regulatory action under Executive Order 12866 of September 30, 1994, Regulatory Planning and Review, 58 FR 51735. To the extent possible, this rule adheres to the principles of regulation set forth in Executive Order 12866. This rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Executive Order 12612, Federalism

This final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for Part 65 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 65.16 is added to read as follows:

§ 65.16 Standard Flood Hazard Determination Form and Instructions.

Section 528 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 1365(a)) directs that FEMA shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director as an area having special flood hazards and in which flood insurance under this title is available. The purpose of the form is to determine whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA), whether flood insurance is required, and whether federal flood insurance is available. Use of this form will ensure that required flood insurance coverage is purchased for structures located in an SFHA, and will assist federal entities for lending regulation in assuring compliance with these purchase requirements. The Standard Flood Hazard Determination Form and accompanying instructions are found in Appendix A to this Part.

3. Appendix A to Part 65 is added at the end of Part 65 to read as follows:

Appendix A to Part 65—Federal Emergency Management Agency, Standard Flood Hazard Determination Form and Instructions

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY **STANDARD FLOOD HAZARD DETERMINATION**	*See The Attached Instructions*	*O.M.B. No. 3067-0264 Expires April 30, 1998*

SECTION I - LOAN INFORMATION

1. LENDER NAME AND ADDRESS	2. COLLATERAL *(Building/Mobile Home/Personal Property)* PROPERTY ADDRESS *(Legal Description may be attached)*	
3. LENDER ID. NO.	4. LOAN IDENTIFIER	5. AMOUNT OF FLOOD INSURANCE REQUIRED $

SECTION II

A. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY JURISDICTION

NFIP Community Name	County(ies)	State	NFIP Community Number

B. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) DATA AFFECTING BUILDING/MOBILE HOME

NFIP Map Number or Community-Panel Number (Community name, if not the same as "A")	NFIP Map Panel Effective/ Revised Date	LOMA/LOMR	Flood Zone	No NFIP Map
		Yes ____ Date ____		

C. FEDERAL FLOOD INSURANCE AVAILABILITY *(Check all that apply)*

☐ Federal Flood insurance is available *(community participates in NFIP)*. ☐ Regular Program ☐ Emergency Program of NFIP

☐ Federal Flood insurance is not available because community is not participating in the NFIP

☐ Building/Mobile Home is in a Coastal Barrier Resources Area (CBRA), Federal Flood insurance may not be available.

CBRA designation date: _____

D. DETERMINATION

IS BUILDING/MOBILE HOME IN SPECIAL FLOOD HAZARD AREA (ZONES BEGINNING WITH LETTERS "A" OR "V")? ☐ YES ☐ NO

If yes, flood insurance is required by the Flood Disaster Protection Act of 1973.
If no, flood insurance is not required by the Flood Disaster Protection Act of 1973.

E. COMMENTS *(Optional)*:

This determination is based on examining the NFIP map, any Federal Emergency Management Agency revisions to it, and any other information needed to locate the building/mobile home on the NFIP map.

F. PREPARER'S INFORMATION

NAME, ADDRESS, TELEPHONE NUMBER *(If other than Lender)*	DATE OF DETERMINATION

FEMA Form 81-93, JUN 96

BILLING CODE 6718–03–C

Standard Flood Hazard Determination Form Instructions

Paperwork Burden Disclosure Notice

Public reporting burden for FEMA Form 81–93 is estimated to average 20 minutes per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472; and to the Office of Management and Budget, Paperwork Reduction Project (30676–0264), Washington, DC 20503.

Note: The 1–800 number referred to in these instructions is not available as of June 1995. FEMA is in the process of establishing this service and will have this number in place by December 1995. A notice will be published in the **Federal Register** announcing this service. In the meantime, community status information can be obtained by faxing a request to (202) 646–3445. Mapping information can be obtained by faxing a request to (202) 646–4596.

Section I

1. Lender Name and Address: Enter lender name and address.

2. Collateral (Building/Mobile Home/Personal Property) Property Address: Enter property address for the insurable collateral. In rural areas, a postal address may not be sufficient to locate the property. In these cases, legal property descriptions may be used and may be attached to the form if space provided is insufficient.

3. Lender Id. No.: The lender funding the loan should identify itself as follows: FDIC-insured lenders should indicate their FDIC Insurance Certificate Number; Federally-insured credit unions should indicate their charter/insurance number; Farm Credit institutions should indicate their UNINUM number. Other lenders who fund loans sold to or securitized by FNMA or FHLMC should enter the FNMA or FHLMC seller/servicer number.

4. Loan Identifier: Optional. May be used by lenders to conform with their individual method of identifying loans.

5. Amount of Flood Insurance Required: Optional. The minimum federal requirement for this amount is the lesser of: the outstanding principal loan balance; the value of the improved property, mobile home and/or personal property used to secure the loan; or the maximum statutory limit of flood insurance coverage. Lenders may exceed the minimum federal requirements. National Flood Insurance Program (NFIP) policies do not provide coverage in excess of the value of the building/mobile home/personal property.

Section II

A. National Flood Insurance Program (NFIP) Community Jurisdiction

NFIP Community Name. Enter the complete name of the community (as indicated on the NFIP map) in which the building or mobile home is located. Under the NFIP, a community is any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction. (Examples: Brewer, City of; Blue Springs, Town of; Washington, Borough of; Worcester, Township of; Baldwin County; Jefferson Parish.) For a building or mobile home that may have been annexed by one community but is shown on another community's NFIP map, enter the Community Name for the community with land-use jurisdiction over the building or mobile home.

County(ies). Enter the name of the county or counties in which the community is located. For unincorporated areas of a county, enter ''unincorporated areas.'' For independent cities, enter ''independent city.''

State. Enter the two-digit state abbreviation. (Examples: VA, TX, CA.)

NFIP Community Number. Enter the 6-digit NFIP community number. This number can be determined by consulting the NFIP Eligibility Book or can be found on the NFIP map; copies of either can be obtained by calling 1–800-xxx-xxxx. If no NFIP Community Number exists for the community, enter ''none''.

B. NFIP Data Affecting Building/Mobile Home

The information in this section (excluding the LOMA/LOMR information) is obtained by reviewing the NFIP map on which the building/mobile home is located. The current NFIP map, and a pamphlet titled ''Guide to Flood Maps,'' may be obtained by calling 1–800-xxx-xxxx. Note that even when an NFIP map panel is not printed, it may be reflected on a community's NFIP map index with its proper number, date, and flood zone indicated; enter these data accordingly.

NFIP Map Number or Community-Panel Number. Enter the 11-digit number shown on the NFIP map that covers the building or mobile home. (Examples: 480214 0022 C; 5810C0075 F.) Note that the first six digits will not match the NFIP Community Number when the sixth digit is a ''C'' or when one community has annexed land from another but the NFIP map has not yet been updated to reflect this annexation. When the sixth digit is a ''C'', the NFIP map is in countywide format and shows the flood hazards for the geographic areas of the county on one map, including flood hazards for incorporated communities and for any unincorporated county contained within the county's geographic limits. Such countywide maps will list an NFIP Map Number. For maps not in such countywide format, the NFIP map will list a Community-Panel Number on each panel. If no NFIP map is in effect for the location of the building or mobile home, enter ''none''.

NFIP Map Panel Effective/Revised Date. Enter the map effective date or the map revised date shown on the NFIP map. (Example: 6/15/93.) This will be the latest of all dates shown on the map.

LOMA/LOMR. If a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) has been issued by the Federal Emergency Management Agency (FEMA) since the current Map Panel Effective/Revised Date that revises the flood hazards affecting the building or mobile home, check ''yes'' and specify the date of the letter; otherwise, no entry is required. Information on LOMAs and LOMRs is available from the following sources:

1. The community's official copy of its NFIP map should have a copy of all subsequently-issued LOMAs and LOMRs attached to it.

2. For LOMAs and LOMRs issued on or after October 1, 1994, FEMA publishes a list of these letters twice a year as a compendium in the **Federal Register**; a subscription service providing actual copies of these letters semi-monthly is also available. To inquire about these two services, call 1–800-xxx-xxxx.

3. Most LOMAs and LOMRs issued since 1983 nationwide are contained in FEMA's Community Information System. An electronic listing may be requested, and may be limited to specific communities or states, if desired. For information on this service, call 1–800-xxx-xxxx.

Flood Zone. Enter the flood zone covering the building or mobile home. (Examples: A, AE, A1–30, V, VE, V1–30, AH, AO, B, C, X, D.) If the building or mobile home straddles the dividing line between two flood zones, list both. All flood zones beginning with the letter ''A'' or ''V'' are considered Special Flood Hazard Areas (SFHAs). Each flood zone is defined in the legend of the NFIP map on which it appears.

No NFIP Map. If no NFIP map covers the area where the building or mobile home is located, check this box.

C. Federal Flood Insurance Availability

Check all boxes that apply; however, note that boxes 1 (Federal Flood Insurance is available * * *) and 2 (Federal Flood Insurance is not available * * *) are mutually exclusive. Federal flood insurance is available to all residents of a community that participates in the NFIP. Community participation status can be determined by consulting the NFIP Eligibility Book, which can be obtained by calling 1–800-xxx-xxxx. The NFIP Eligibility Book will indicate whether or not the community is participating in the NFIP and whether participation is in the Emergency or Regular Program. If the community participates in the NFIP, check either Regular Program or Emergency Program. To obtain Federal flood insurance, a copy of this completed form may be provided to an insurance agent.

Federal flood insurance is prohibited in designated Coastal Barrier Resources Areas (CBRA) for buildings or mobile homes built or substantially improved after the date of the CBRA designation. An information sheet explaining CBRA areas may be obtained by calling 1–800-xxx-xxxx.

D. Determination: If any portion of the building/mobile home is in an identified SFHA, check yes (flood insurance is required). If no portion of the building/mobile home is in an identified SFHA, check no.

E. Comments: Optional. Persons completing the form may use this portion in any manner.

F. Preparer's Information: If other than the lender, enter the name, address, and telephone number of the company or organization performing the flood hazard determination. An individual's name may be included, but is not required.

Date of Determination. Enter date on which the flood hazard determination was completed.

Other Information

Multiple Buildings: If the loan collateral includes more than one building, a schedule for the additional building(s)/mobile home(s) indicating the determination for each may be attached. Otherwise, a separate form must be completed for each building or mobile home. Any attachment(s) should be noted in the comment section. A separate flood insurance policy is required for each building or mobile home.

Guarantees Regarding Information: Determinations on this form made by persons other than the lender are acceptable only to the extent that the accuracy of the information is guaranteed.

Dated: June 20, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–16404 Filed 7–5–95; 8:45 am]

BILLING CODE 6718–03–P

Federal Register

Thursday
July 6, 1995

Part V

Department of the Treasury
Office of the Comptroller of the Currency
12 CFR Part 22

Federal Reserve System
12 CFR Part 208

Federal Deposit Insurance Corporation
12 CFR Part 339

Department of the Treasury
Office of Thrift Supervision
12 CFR Part 563

Farm Credit Administration
12 CFR Part 614

National Credit Union Administration
12 CFR Part 760

Loans in Areas Having Special Flood Hazards; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 22

[Docket No. 95–12]

RIN 1557–AB47

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H, Docket No. R–0882]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 339

RIN 3064–AB62

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 95–124]

RIN 1550–AA82

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB57

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 760

Loans in Areas Having Special Flood Hazards

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); Farm Credit Administration (FCA); and National Credit Union Administration (NCUA) (collectively, the Federal entities for lending regulation or the agencies).

ACTION: Joint final rule.

SUMMARY: The OCC, Board, FDIC, OTS, and NCUA are amending their regulations concerning loans in areas having special flood hazards to require depository institutions to use the Standard Flood Hazard Determination Form (the standard form) in determining whether real property offered as collateral for a loan is located in a special flood hazard area. The FCA is adopting this same requirement in new regulations. The standard form has been developed by the Federal Emergency Management Agency (the FEMA), in consultation with the Federal entities for lending regulation and other agencies. Use of the standard form will help ensure that borrowers obtain the required flood insurance for improved real property and mobile homes located in special flood hazard areas.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: *OCC:* Carol Workman, Compliance Specialist, Compliance Management (202) 874–4858, Margaret Hesse, Attorney, Community and Consumer Law Division, (202) 874–5750, or Jacqueline L. Lussier, Senior Attorney, Legislative and Regulatory Activities Division, Office of Chief Counsel, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, D.C. 20219.

BOARD: Diane Jackins, Senior Review Examiner, or Jennifer Lowe, Review Examiner, Division of Consumer and Community Affairs, (202) 452–3946, or Lawranne Stewart, Senior Attorney, (202) 452–3513, or Rick Heyke, Attorney, (202) 452–3688, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551.

FDIC: Mark Mellon, Senior Attorney, Regulation and Legislation Section, Legal Division, (202) 898–3854, or Ken Baebel, Senior Review Examiner, (202) 942–3086, or Barbara L. Boehm, Consumer Affairs Specialist, (202) 942–3631, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

OTS: Larry Clark, Program Manager, Compliance Policy, (202) 906–5628, or Catherine Shepard, Senior Attorney, Regulation and Legislation Division, Office of the Chief Counsel, (202) 906–7275, Office of Thrift Supervision, 1700 G Street, NW, Washington, D.C. 20552.

FCA: Robert G. Magnuson, Policy Analyst, Regulation Development, Office of Examination, (703) 883–4498, or William L. Larsen, Senior Attorney, Office of General Counsel, (703) 883–4020, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

NCUA: Kimberly Iverson, Program Officer, (703) 518–6375, or Jeffrey S. Mooney, Staff Attorney, (703) 518–6563, 1775 Duke Street, Alexandria, VA 22314–3428.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Flood Insurance Legislation

Congress enacted the National Flood Insurance Act of 1968 (the 68 Act) (Pub. L. 90–448, 82 Stat. 476) and the Flood Disaster Protection Act of 1973 (the 73 Act) (Pub. L. 93–234, 87 Stat. 975) to provide, through the authorization of a Federal flood insurance program, an opportunity for property owners to purchase protection for property subject to flooding. The 68 Act and the 73 Act are codified at 42 U.S.C. 4001 *et seq.*

The Reform Act

Amendments to the 68 Act and the 73 Act are set forth in the National Flood Insurance Reform Act of 1994 (the Reform Act), Title V of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160). Several of these amendments require implementing regulations by the Federal entities for lending regulation.[1]

As amended by the Reform Act, the 73 Act directs the Federal entities for lending regulation (a term defined by section 3(a)(5) of the 73 Act (42 U.S.C. 4003(a)(5)) to include the OCC, Board, FDIC, OTS, FCA, and the NCUA) to issue regulations which direct regulated lending institutions (a term defined by section 3(a)(10) of the 73 Act (42 U.S.C. 4003(a)(10)) to include any bank, savings and loan association, Farm Credit System institution, and credit union) which are subject to their supervision to ensure that any loan secured by improved real estate or a mobile home (real property) located or to be located in a special flood hazard area is covered for the term of the loan by flood insurance. Section 102(b) of the 73 Act (42 U.S.C. 4012a(b)).

Standard Flood Hazard Determination Form

Section 528 of the Reform Act amends the 68 Act by adding a new section 1365 (42 U.S.C. 4104b). Section 1365(a) of the 68 Act requires the Director of the FEMA, in consultation with the Federal entities for lending regulation (among others), to develop a Standard Flood Hazard Determination Form for use in determining whether real property offered as collateral on a loan is located in a special flood hazard area. Section 1365(a) states that the standard form shall be established by FEMA regulations issued not later than 270 days after the date of enactment of the Reform Act. The Reform Act was signed

[1] One change effected by the Reform Act is to make Farm Credit System institutions subject for the first time to the requirements of the 68 Act and the 73 Act. See sections 1370(a)(13) of the 68 Act (42 U.S.C. 4121(a)); and 3(a)(10) of the 73 Act (42 U.S.C. 4003(a)(10)). As a result, the FCA, the Federal entity responsible for the supervision of such institutions, must promulgate regulations to implement the requirements of these statutes. This final rule is part of that project.

into law on September 23, 1994. The standard form must therefore be established by the FEMA by no later than June 20, 1995.

A proposed rulemaking to establish the standard form was approved for release for notice and comment by the FEMA on March 30, 1995. See 60 FR 17758 (April 7, 1995). The public comment period on the proposed rule ended on May 8, 1995. The proposed rule was adopted by the FEMA in final form on June 20, 1995, and is published elsewhere in today's **Federal Register**.

Section 1365(c) of the 68 Act states that the Federal entities for lending regulation must promulgate regulations which require the use of the standard form by regulated lending institutions when determining whether real property offered as collateral for a loan is located in a special flood hazard area. Section 1365(c) further states that a lender or other person may comply with this requirement by using the standard form in a printed, computerized, or electronic manner.

Section 1365(f) of the 68 Act states that the regulations requiring use of the standard form must be issued together with the FEMA regulation which establishes the standard form and that the form will have an effective date of 180 days after the date of issuance of the regulations. To satisfy this requirement, this final rule requiring the use of the standard form is published in the same issue of the **Federal Register** as the final rule of the FEMA which establishes the standard form.

II. The Final Rule

Notice and comment on the final rule requiring the use of the standard form are unnecessary since the rulemaking merely implements the statutory requirement that the standard form be used by regulated lending institutions. The rulemaking is therefore technical in nature. The required use of the standard form is not in need of definition or interpretation. Moreover, the public has already had the opportunity to comment on the substantive content and format of the standard form, thus fulfilling the public interest in notice and comment. The final format and content of the standard form have been determined through the related FEMA rulemaking described above.

The Federal entities for lending regulation therefore find good cause, in accordance with section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), to omit notice and comment on the rules as unnecessary and to instead issue final rules which impose the requirement that the standard form be used by regulated lending institutions.

III. Effective Date

The final rule will become effective January 2, 1996.

IV. Paperwork Reduction Act

As noted previously, it is the responsibility of the FEMA to establish the standard form by regulation. The FEMA has determined that the standard form constitutes a ''collection of information'' as that term is defined in section 3502(4) of the Paperwork Reduction Act (the PRA) (44 U.S.C. 3501 et seq.). See 60 FR 17760. The FEMA has submitted information on the standard form to the Office of Management and Budget for review as required by section 3507 of the PRA (44 U.S.C. 3507). The Director of OMB has approved the proposed information collection request of the FEMA, as required by section 3507.

V. Regulatory Burden

Section 302 of the Riegle Community Development and Regulatory Improvement Act (12 U.S.C. 4802) provides that each Federal banking agency must consider the administrative burdens and benefits of any new regulations that impose additional requirements on insured depository institutions. Section 302 also requires that any regulations which impose additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. This requirement need not be observed, however, if a Federal statute requires that the regulation take effect on a different date from the one mandated by section 302. See section 302(b)(1)(C) (12 U.S.C. 4802(b)(1)(C)).

Requiring the use of the standard form will be an additional requirement for depository institutions. Section 528 of the Reform Act provides, however, that the standard form be used and the agencies must implement this statutory requirement.

Moreover, as noted previously, the new section 1365(f) of the 68 Act, as added by section 528 of the Reform Act, provides that the regulations requiring the use of the standard form shall be effective upon the expiration of the 180-day period beginning on the date of the regulations' issuance. Since the 68 Act requires that the regulations requiring the use of the standard form take effect on a different date from the one mandated by section 302, the exception in section 302 is operative.

VI. Executive Order 12866

The OCC and the OTS have determined that this rule is not a significant regulatory action as defined in Executive Order 12866.

VII. Unfunded Mandates Act of 1995

The OCC and the OTS have determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VIII. NCUA Executive Order 12612 Statement

This rule, like the current part 760 it is replacing, will apply to all Federally insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined, however, that this rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among various levels of government. Further, this rule will not preempt provisions of state law or regulations.

List of Subjects

12 CFR Part 22

Flood insurance, Mortgages, National banks, Reporting and recordkeeping requirements.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Flood insurance, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 339

Flood insurance, Reporting and recordkeeping requirements.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 760

Credit unions, Mortgages, Flood insurance, Reporting and recordkeeping requirements.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set forth in the joint preamble, part 22 of chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

PART 22—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

1. The authority citation for part 22 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. A new § 22.6 is added to read as follows:

§ 22.6 Required use of Standard Flood Hazard Determination Form.

A bank shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in appendix A of 44 CFR part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (12 U.S.C. 4001 *et seq.*). The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

Dated: June 20, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

12 CFR CHAPTER II

For the reasons set forth in the joint preamble, the Board amends 12 CFR Part 208 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p-1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(j), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 208.8 is amended by adding a new paragraph (e)(4) to read as follows:

§ 208.8 Banking practices.

* * * * *

(e) * * *

(4) *Required use of Standard Flood Hazard Determination Form.* A state member bank shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 20, 1995.

William W. Wiles,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the joint preamble, the Board of Directors of the FDIC amends Part 339 of Chapter III of title 12 of the Code of Federal Regulations as follows:

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

1. The authority citation for part 339 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 339.7 is added to read as follows:

§ 339.7 Required use of Standard Flood Hazard Determination Form.

A bank shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan (as that term is defined in § 339.2(b)) is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

By order of the Board of Directors.

Dated at Washington, D.C., this 19th day of June, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

Accordingly, for the reasons set forth in the joint preamble, the Office of Thrift Supervision hereby amends chapter V, title 12 of the Code of Federal Regulations, as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

1. The authority citation for part 563 is revised to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4012a, 4104a, 4104b, 4106, 4128.

2. Section 563.48 is amended by adding a new paragraph (f) to read as follows:

§ 563.48 Flood disaster protection.

* * * * *

(f) *Required use of Standard Flood Hazard Determination Form.* A savings association shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

Dated: June 16, 1995.

By the Office of Thrift Supervision.

John F. Downey,

Director, Supervision.

Farm Credit Administration

12 CFR Chapter VI

Authority and Issuance

For the reasons stated in the joint preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 is revised to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

2. Part 614 is amended by adding a new subpart S to read as follows:

Subpart S—Flood Insurance Requirements

Sec.
614.4940 Required use of Standard Flood Hazard Determination Form

Subpart S—Flood Insurance Requirements

§ 614.4940 Required use of Standard Flood Hazard Determination Form.

An institution of the Farm Credit System shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

Dated: June 16, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Chapter VII

Authority and Issuance

For the reasons set forth in the joint preamble, the NCUA amends 12 CFR Part 760 as follows:

PART 760—FLOOD INSURANCE

1. The authority citation for part 760 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1789; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. Section 760.12 is added to read as follows:

§ 760.12 Required use of Standard Flood Hazard Determination Form

A credit union shall use the standard flood hazard determination form developed by the Director of the Federal Emergency Management Agency (the FEMA) (as set forth in Appendix A of 44 CFR Part 65) when determining whether improved real estate or a mobile home offered as collateral security for a loan is located in an area identified by the Director of the FEMA as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

By the National Credit Union Administration Board on June 26, 1995.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–16199 Filed 7–5–95; 8:45 am]

BILLING CODES 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P; 6705–01–P; 7535–01–P

federal register

Thursday
July 6, 1995

Part VI

Federal Election Commission

11 CFR Parts 100, 106, 109, and 114
Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures; Final Rule

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 109, and 114

[Notice 1995–10]

Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures

AGENCY: Federal Election Commission.

ACTION: Final rule; Transmittal of regulations to Congress.

SUMMARY: The Commission is issuing revised regulations that define the term ''express advocacy'' and describe certain nonprofit corporations that are exempt from the prohibition on independent expenditures. The new rules implement portions of several decisions issued by the Federal courts in recent years. These rules were originally part of a larger rulemaking on the scope of permissible and prohibited corporate and labor organization expenditures. The Commission expects to complete the remaining portions of the original rulemaking by issuing additional revisions to the regulations at a later date.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is today publishing the final text of revisions to its regulations at 11 CFR 100.17, 106.1(d) and 109.1(b) and the text of new regulations at 11 CFR 100.22 and 114.10. Generally, these regulations implement sections 431(17), 431(18) and 441b of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* [''FECA'' or ''the Act'']. These regulations have been revised in accordance with a number of Federal court decisions involving section 441b.

Section 441b prohibits corporations and labor organizations from using general treasury monies to make contributions or expenditures in connection with Federal elections. The new regulations provide further guidance on what constitutes an expenditure, and describe certain corporations that are exempt from the independent expenditure prohibition. However, these new rules do not apply to contributions, whether monetary or in-kind.

In *Federal Election Commission* v. *Massachusetts Citizens for Life, Inc.,* 479 U.S. 238 (1986) [''*MCFL*''], the Supreme Court held that expenditures must constitute express advocacy to be subject to the prohibition of section 441b. *MCFL* at 249. In addition, the Court concluded that the prohibition on independent expenditures in section 441b cannot constitutionally be applied to nonprofit corporations having certain essential features. The Court said that corporations that (1) are formed for the express purpose of promoting political ideas and cannot engage in business activities; (2) have no shareholders or other persons affiliated so as to have a claim on the corporation's assets or earnings; and (3) are not established by a business corporation or labor organization and have a policy against accepting donations from such entities, cannot be subject to the independent expenditure prohibition.

Based on this decision, the National Right to Work Committee filed a Petition for Rulemaking urging the Commission to revise 11 CFR 114.3 and 114.4 to conform to the statement in the *MCFL* opinion that ''express advocacy'' is the appropriate standard for determining when independent communications by corporations and labor organizations are prohibited under section 441b. *See* Notice of Availability of Petition for Rulemaking, National Right to Work Committee, 52 FR 16275 (May 4, 1987). Thus, the Petition took the position that the Commission's partisan/nonpartisan standards governing corporate and labor organization communications to the entity's restricted class and the general public are unconstitutional under *MCFL*.

The Commission subsequently sought public input on whether to initiate a rulemaking to determine the extent to which the *MCFL* decision necessitated changes in the Part 114 rules governing independent expenditures by corporations possessing the three essential features, changes in the scope of the ''independent expenditure'' provisions at 11 CFR Part 109, or the implementation of an ''express advocacy'' test for all corporations and labor organizations covered by 11 CFR Part 114. Advance Notice of Proposed Rulemaking, 53 FR 416 (January 7, 1988) [''Advance Notice'' or ''ANPRM''].

The Commission received over 17,000 comments in response to the Advance Notice. Nearly all of the commenters submitted virtually identical letters urging the Commission to act favorably on NRWC's rulemaking petition, and to limit application of its regulations to communications expressly advocating the election or defeat of candidates so as to avoid impinging upon First Amendment rights. The Commission also received detailed comments from seven sources, and held a public hearing on November 16, 1988 at which two commenters testified as to how the Commission should implement the *MCFL* opinion. The detailed comments and testimony reflect a wide range of views as to how the Commission should proceed in response to the *MCFL* decision.

In subsequent litigation, two lower courts relied upon an express advocacy standard to evaluate corporate communications under section 441b of the FECA. In *Faucher* v. *Federal Election Commission,* 743 F. Supp. 64 (D. Me. 1990), the court invalidated the Commission's voter guide regulations at 11 CFR 114.4(b)(5)(i). The Court concluded that the Commission's voter guide rule is not authorized by the FECA ''as interpreted by the Supreme Court in [*MCFL*], to the extent that the regulation makes the permissibility of voter guides * * * hinge upon on whether such guides are 'nonpartisan' in a broad sense that includes issue advocacy rather than the narrower test of 'express advocacy.''' *Id.* at 72. Similarly, in *Federal Election Commission* v. *National Organization of Women,* 713 F. Supp. 428 (D.D.C. 1989) [''*NOW*''], another district court applied an express advocacy test to determine whether section 441b permitted an incorporated membership organization to use general treasury funds for membership recruitment letters directed to the general public. The court concluded that the letters in question did not go beyond issue discussion to express electoral advocacy. The Commission appealed both of these lower court decisions.

Shortly after the *MCFL* opinion, a court of appeals decision held that speech need not include any of the specific words listed in *Buckley* v. *Valeo,* 424 U.S. 1, 44 n.52 (1976) to constitute express advocacy. *Federal Election Commission* v. *Furgatch,* 807 F.2d 857, 862–63 (9th Cir.), *cert. denied,* 484 U.S. 850 (1987). Instead, the appropriate inquiry is whether the communication, when read as a whole and with limited reference to external events, is susceptible to no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. *Id.* at 864.

In addition, the Supreme Court provided further guidance on the exception from the independent expenditure prohibition for nonprofit corporations in *Austin* v. *Michigan Chamber of Commerce,* 494 U.S. 652 (1990). In *Austin,* the Court interpreted a Michigan statute very similar to

section 441b of the FECA. The *Austin* decision prompted the Commission to issue a second notice seeking further comments on what changes to its regulations were warranted. Request for Further Comment, 55 FR 40397 (Oct. 3, 1990), comment period extended 55 FR 45809 (Oct. 31, 1990). This notice also welcomed comments on the express advocacy questions raised by the *Faucher* and *NOW* decisions.

Eight commenters responded to the second notice, including some who reiterated their earlier positions. Most, but not all, of the commenters urged the Commission to adopt an express advocacy test for expenditures under section 441b. One comment favored the development of definitions which precisely set out what activity will be deemed within the scope of the FECA under such a standard, while another comment supported the use of a case by case approach. There was also some support for revising the regulations to reflect the approach to express advocacy taken into the *Furgatch* opinion. The Commission also received specific suggestions for delineating the class of nonprofit corporations falling within *MCFL*'s exception from the independent expenditure prohibition. Two comments advocated a broad scope for the exemption, while a third comment emphasized the narrowness of the group of organizations possessing the three essential features delineated in *MCFL* and *Austin*.

Subsequently, the Court of Appeals for the First Circuit upheld the district court's decision in *Faucher*. *Faucher* v. *Federal Election Commission,* 928 F.2d 468 (1st Cir. 1991). *cert. denied sub nom*. *Federal Election Commission* v. *Keefer et al.,* 502 U.S. 820 (1991). The Commission sought certiorari in *Faucher,* arguing that the express advocacy standard should not be made applicable to the 441b prohibition on corporate expenditures. On October 7, 1991, the Supreme Court denied the petition for certiorari, and thus declined to consider narrowing or otherwise modifying the statements it made in *MCFL* regarding the scope of section 441b. Accordingly, the Commission moved for the dismissal of its appeal in *NOW* and resumed consideration of several substantial changes to its regulations necessitated by the *MCFL* decision.

The Commission published a Notice of Proposed Rulemaking on July 29, 1992 seeking public comment on draft rules codifying the reduced scope of the prohibition on corporate expenditures. 57 FR 33548 (July 29, 1992). The proposed language set forth the general rule that corporations and labor organizations are prohibited from making expenditures for communications to the general public expressly advocating the election or defeat of a clearly identified candidate. The draft regulations also sought to establish criteria for determining whether nonprofit corporations qualify for the exemption from section 441b's prohibition on independent expenditures.

The Commission received 35 separate comments on the NPRM from 32 commenters between July 29, 1992 and November 22, 1993. The Commission also received 149 form comments during that period. The Commission held a public hearing on October 15 and 16, 1992, at which 15 of these commenters testified on the issues presented in the *MCFL* decision and the proposed rules. The comments and testimony are discussed in more detail below.

As indicated above, this rulemaking process has involved a broader range of issues regarding the scope of permissible and prohibited corporate and labor organization expenditures than is reflected in the final rules being promulgated today. The rulemaking with regard to the other issues is continuing, and the Commission expects to issue additional new rules revising 11 CFR Parts 110 and 114 at a later date. These subsequent changes will replace the partisan/nonpartisan standards in sections 110.13, 114.1, 114.2, 114.3, 114.4 and 114.12(b) with language prohibiting corporations and labor organizations from making expenditures for communications to the general public expressly advocating the election or defeat of clearly identified candidates. Specifically, these provisions govern candidate debates, candidate appearances, distributing registration and voting information, voter guides, voting records, conducting voter registration and get-out-the-vote drives and use of meeting rooms. At the same time, the Commission intends to address issues which have arisen regarding activities undertaken by incorporated colleges and universities, the use of logos, trademarks and letterheads, endorsements of candidates, activities which facilitate the making of contributions, and coordination between candidates and corporations or labor organizations which results in in-kind contributions. These issues, not previously addressed in the rules, involve activities that are also impacted by the express advocacy standard and the case law in this area.

Section 438(d) of Title 2, United States Code requires that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 30, 1995.

Explanation and Justification

Generally, the new and amended rules contain the following changes. First, the definitions of ''express advocacy'' and ''clearly identified'' at 11 CFR 109.1 (b)(2) and (b)(3) have been moved to new 11 CFR 100.22 and revised 11 CFR 100.17, respectively. They have been reworded to provide further guidance on what types of communications constitute express advocacy of clearly identified candidates, in accordance with the judicial interpretations found in *Buckley, MCFL, Furgatch, NOW* and *Faucher.*

Second, new section 114.10 has been added to implement the *MCFL* Court's conclusion that nonprofit corporations possessing certain essential features may not be bound by the restrictions on independent expenditures contained in section 441b. This new section expressly permits certain corporations to use general treasury funds for independent expenditures, and sets out the reporting obligations for these corporations.

Part 100—Scope and Definitions (2 U.S.C. 431)

Section 100.17 Clearly Identified (2 U.S.C. 431(18))

The definitions of ''clearly identified'' in 11 CFR 106.1(d) and ''clearly identified candidate'' in 11 CFR 109.1(b)(3) have been removed and replaced by a revised definition in section 100.17. It is not necessary for this definition to appear in multiple locations throughout these regulations.

The NPRM sought comments on two alternative approaches regarding the requirement that the candidates be ''clearly identified.'' Alternative A–1 indicated that this would include candidates of a clearly identified political party and a clearly identified group of candidates, such as the ''pro-life'' candidates in the *MCFL* case. Alternative A–2 did not specifically mention clearly identified groups of candidates or candidates of clearly identified political parties.

Several commenters and witnesses argued that under Alternative A–1, it could be too difficult to determine the candidates in the group. Examples cited were buttons that read ''Elect Women

for a Change'' or ''Vote Pro-Choice,'' without more. The language was intended to apply to a situation, for example, where one insert in a mailing lists voting records or positions on specific issues and clearly indicates which of the named candidates shares the speaker's views. If another insert urges the reader to vote in favor of candidates who share its views, this is considered to be advocating the election of those clearly identified candidates. Similarly, the *MCFL* case involved a flyer which urged voters to vote for ''pro-life'' candidates, and included a list of ''pro-life candidates.'' Thus, in this example, several ''pro-life'' candidates were clearly identified to the reader.

In light of comments, the wording of new section 100.22(a) has been reworked to refer to ''one or more clearly identified candidate(s)'' to more clearly state what was intended. In addition, section 100.17 has been modified to provide some additional examples of when candidates are considered to be ''clearly identified.''

Section 100.22 Expressly Advocating

The definition of express advocacy previously located in 11 CFR 109.1(b)(2) has been replaced with a revised definition in new section 100.22. The placement of the definition of express advocacy in Part 100—Scope and Definitions is intended to ensure that the reader will be able to locate it more easily. Also, while express advocacy is an important component of any independent expenditure, it is also the legal standard used in determining whether other types of activities are expenditures by corporations or labor organizations under 11 CFR Part 114. Please not that the terms ''communication containing express advocacy'' and ''communication expressly advocating the election or defeat of one or more clearly identified candidates'' have the same meaning.

The NPRM presented the possibility of creating a separate definition of ''express advocacy'' for inclusion in Part 114 that would apply only to corporations and labor organizations governed by that Part. The NPRM indicated that the purpose of promulgating a separate definition would be to focus more specifically on implementing the *MCFL* Court's dictate that ''express advocacy'' is the standard when determining what is an expenditure under 2 U.S.C. § 441b. The Notice suggested that a separate definition could center on whether a communication urged action with respect to a federal election rather than on whether the communication also related to a clearly identified candidate. Thus, this approach would have taken a different view of ''express advocacy'' for organizations subject to the prohibitions of section 441b.

There was little support for separate definitions from the comments and testimony. The difficulty the commenters and witnesses had in trying to determine what the courts meant by ''express advocacy,'' and what they thought the Commission had in mind, amply demonstrate that it would be extremely confusing to work with separate definitions for corporations and labor organizations on one hand, and candidates, committees and individuals on the other. Consequently, separate definitions of express advocacy have not been included in the final rules.

1. Alternative Definitions Presented in the NPRM

The NPRM sought comments on two alternative sets of revisions to the definition of express advocacy. Alternatives A–1 and A–2 were similar in several respects. They both continued to list the specific phrases set forth in the *Buckley* opinion as examples of express advocacy. Both alternatives recognized that all statements and expressions included in a communication must be evaluated in terms of pertinent external factors such as the context and timing of the communication. In addition, both proposed definitions clearly indicated that communications consisting of several pieces of paper will be read together.

The alternative definitions in the NPRM differed in several respects. Under Alternative A–1, express advocacy included suggestions to take actions to affect the result of an election, such as to contribute or to participate in campaign activity. In contrast, Alternative A–2 indicated that express advocacy constitutes an exhortation to support or oppose a clearly identified candidate, and that there must be no other reasonable interpretation of the exhortation other than encouraging the candidate's election or defeat, rather than another type of action on a specific issue. Nevertheless, Alternative A–2 also specifically stated that ''with respect to an election'' includes references such as ''Smith '92'' or ''Jones is the One.''

There was no consensus among the commenters and witnesses regarding either alternative definition of express advocacy. While there was more support for Alternative A–2 than A–1, specific portions of both alternatives troubled a number of commenters and witnesses. Some objected that Alternative A–1 was too narrow in that it did not cover all express, implied, or reasonably understood references to an upcoming election. Others argued Alternative A–1 was too broad, and preferred Alternative A–2. However, there was also considerable sentiment expressed that Alternative A–2 was also too broad, and should be further limited to avoid running afoul of the First Amendment considerations that are involved.

To illustrate the difficulty involved in applying an ''express advocacy'' standard, the Commission included Agenda Document #92–86–A in the rulemaking record. This document contained seven hypothetical advertisements, each of which is assumed to be published within two weeks of an election. Several written comments and witnesses mentioned these examples in analyzing the proposals contained in this Notice, but there was no consensus as to which examples, if any, contained express advocacy.

In commenting on the proposed rules, the Internal Revenue Service indicated that 26 U.S.C. § 501(c)(3) prohibits certain nonprofit organizations from participating or intervening in political campaigns on behalf of or in opposition to candidates for elective public office. The IRS stated that prohibited political activity under the Internal Revenue Code is much broader in scope than the express advocacy standard under the FECA. The Commission expresses no opinion as to any tax ramifications of activities conducted by nonprofit corporations, since these questions are outside its jurisdiction.

The definition of express advocacy included in new section 100.22 includes elements from each definition, as well as the language in the *Buckley*, *MCFL* and *Furgatch* opinions emphasizing the necessity for communications to be susceptible to no other reasonable interpretation but as encouraging actions to elect or defeat a specific candidate. Please note that exhortations to contribute time or money to a candidate would also fall within the revised definition of express advocacy. The expressions enumerated in *Buckley* included ''support,'' a term that encompasses a variety of activities beyond voting.

2. Examples of Phrases That Expressly Advocate

The previous definition of express advocacy in 11 CFR 109.1(b)(2) included a list of expressions set forth in *Buckley*. Both alternatives in the NPRM would have largely retained this list of phrases that constitute express

advocacy. The revised definition in 11 CFR 100.22(a) includes a somewhat fuller list of examples. The expressions enumerated in *Buckley*, such as ''vote for,'' ''Smith for Congress,'' and ''defeat'' have no other reasonable meaning than to urge the election or defeat of clearly identified candidates.

3. Communications Lacking Such Phrases

The NPRM also addressed communications that contain no specific call to take action on any issue or to vote for a candidate, but which do discuss a candidate's character, qualifications, or accomplishments, and which are made in close proximity to an election. An example is a newspaper or television advertisement which simply states that the candidate has been caring, fighting and winning for his or her constituents. Another example is a case in which a candidate is criticized for missing many votes, or for specific acts of misfeasance or malfeasance while in office.

Under Alternative A–2, these types of communications would have constituted exhortations if made within a specified number of days before an election, and if they did not encourage any type of action on any specific issue, such as, for example, supporting pro-life or pro-choice legislation. Comments were requested as to what an appropriate time frame should be—as short as 14 days, or as long as six months, prior to an election, or some other time period considered reasonable.

Some commenters opposed treating these communications as express advocacy on the grounds that there is not a clear call to action. Others argued that such communications, particularly when made by a candidate's campaign committee, were clearly intended to persuade the listener or reader to vote for the candidate.

Communications discussing or commenting on a candidate's character, qualifications, or accomplishments are considered express advocacy under new section 100.22(b) if, in context, they have no other reasonable meaning than to encourage actions to elect or defeat the candidate in question. The revised rules do not establish a time frame in which these communications are treated as express advocacy. Thus, the timing of the communication would be considered on a case-by-case basis.

4. Communications Containing Both Issue Advocacy and Electoral Advocacy

The final rules, like the proposed rules, treat communications that include express electoral advocacy as express advocacy, despite the fact that the communications happen to include issue advocacy, as well. Several comments pointed out that the legislative process continues during election periods, and argued that if a legislative issue becomes a campaign issue, the imposition of unduly burdensome requirements on those groups seeking to continue their legislative efforts and communicate with their supporters is unconstitutional. These concerns are misplaced, however, because the revised rules in section 100.22(b) do not affect pure issue advocacy, such as attempts to create support for specific legislation, or purely educational messages. As noted in *Buckley*, the FECA applies only to candidate elections. See, e.g., 424 U.S. at 42–44, 80. For example, the rules do not preclude a message made in close proximity to a Presidential election that only asked the audience to call the President and urge him to veto a particular bill that has just been passed, if the message did not refer to the upcoming election or encourage election-related actions. In contrast, under these rules, it is express advocacy if the communication described above urged the audience to vote against the President if the President does not veto the bill in question.

Nevertheless, to alleviate the commenters' concerns, the definition of express advocacy in new section 100.22(b) has been revised to incorporate more of the *Furgatch* interpretation by emphasizing that the electoral portion of the communication must be unmistakable, unambiguous and suggestive of only one meaning, and reasonable minds could not differ as to whether it encourages election or defeat of candidates or some other type of non-election action.

Both alternative definitions of express advocacy included consideration of the context and timing of the communication, and indicated that communications consisting of several pieces of paper will be read together. Several commenters and witnesses were troubled by the perceived vagueness and uncertainty inherent in the use of the phrases ''taken as a whole,'' ''in light of the circumstances under which they were made,'' and ''with limited reference to external events.'' They argued that they would not be able to ascertain in advance which facts and circumstances would be considered by the Commission. Some of the commenters and witnesses acknowledged the difficulty of crafting a clear and precise standard in the First Amendment context.

The final rules in section 100.22 retain the requirement that the communication be read ''as a whole and with limited reference to external events'' because *MCFL* makes clear that isolated portions of a communication are not to be read separately in determining whether a communication constituted express advocacy. *See* 479 U.S. at 249–50. Further, the *Furgatch* opinion evaluated the contents of the communication in question ''as a whole, and with limited reference to external events.'' 807 F.2d at 864. The external events of significance in *Furgatch* included the existence of an upcoming presidential election and the timing of the advertisement a week before the general election. However, please note that the subjective intent of the speaker is not a relevant consideration because *Furgatch* focuses the inquiry on the audience's reasonable interpretation of the message. *Furgatch*, 807 F.2d at 864–65.

5. ''Vote Democratic'' or ''Vote Republican''

In the NPRM, Alternative A–2 treated as express advocacy messages such as ''Vote Republican'' or ''Vote Democratic'' if made within a specified period prior to a special or general election or an open primary. Again, comments were sought on time periods ranging from 14 days to 6 months prior to an election, or any other time period considered reasonable. Alternatively, the period between the primary and general elections was suggested as the time when such messages refer to clearly identified candidates. In contrast, Alternative A–1 treated these phrases as express advocacy if made at any time after specific individuals have become Republican or Democratic candidates within the meaning of the FECA in the geographic area in which the communication is made. The NPRM also sought comments on when a message such as ''Vote Democratic'' or ''Vote Republican'' refers to one or more clearly identified candidates, rather than being just a message of support for a party.

The views of the commenters and witnesses reflected little consensus regarding these messages. Several were supportive of Alternative A–2, and suggested that a 90 day time frame would be appropriate. Others felt that such messages are always express advocacy because they aim at influencing the outcome of elections. Conversely, some commenters argued that these messages cannot be express advocacy if there are no declared candidates yet running for the party's

nomination or if the nominee of the party has not yet been selected.

Section 100.22 of the final rules does not specify a time frame or triggering event that will cause these messages to be considered express advocacy. Instead, messages such as ''Vote Democratic'' or ''Vote Republican'' will be evaluated on a case-by-case basis to determine whether they constitute express advocacy under the criteria set out in 11 CFR 100.22(b).

Part 106—Allocations of Candidate and Committee Activities

Section 106.1 Allocation of expenses between candidates

A conforming amendment has been made to paragraph (d) of section 106.1. Previously, this paragraph restated the definition of ''clearly identified.'' It has been revised to refer the reader to the definition located in 11 CFR 100.17.

Part 109—Independent Expenditures (2 U.S.C. 431(17), 434(c))

Section 109.1 Definitions (2 U.S.C. 431(17))

The revised rules incorporate a technical amendment to the definition of ''person'' in the independent expenditure provisions in section 109.1(b)(1). The revision clarifies that ''person'' includes qualified nonprofit corporations, which are discussed more fully below. This change reflects that in *MCFL*, the Court upheld the right of qualified nonprofit corporations to make independent expenditures, but this decision did not extend to other corporations.

Conforming amendments have also been made to paragraphs (b)(2) and (b)(3) of section 109.1. These sections had contained definitions of ''expressly advocating'' and ''clearly identified candidate.'' As explained above, they have been revised to refer the reader to the definitions located in sections 100.22 and 100.17, respectively.

Part 114—Corporate and Labor Organization Activity

Section 114.2 Prohibitions on Contributions and Expenditures

Paragraph (b) of section 114.2 has been revised to reflect the exception recognized in the *MCFL* decision, which allows certain nonprofit corporations to use their general treasury funds to make independent expenditures. The Commission anticipates making further changes to this provision when it completes the remaining portions of this rulemaking.

Section 114.10 Qualified Nonprofit Corporations

In *MCFL*, the Supreme Court reviewed the application of the independent expenditure prohibition in section 441b to MCFL, a small, nonprofit corporation organized to promote specific ideological beliefs. The Court concluded that, because MCFL did not have the potential to exert an undesirable influence on the electoral process, it did not implicate the concerns that legitimately prompted regulation by Congress. Consequently, the Court found section 441b unconstitutional as applied to MCFL.

The Court cited ''three features essential to [its] holding that [MCFL] may not constitutionally be bound by § 441b's restriction on independent spending.'' 479 U.S. at 264. First, MCFL was formed for the express purpose of promoting political ideas and cannot engage in business activities. Second, it has no shareholders or other persons affiliated so as to have either a claim on the corporation's assets or earnings, or any other economic disincentives to disassociate with the corporation. Third, it was not established by a business corporation or a labor union, and it has a policy of not accepting contributions from such entities. *MCFL* at 264. The Court said that section 441b's prohibition on independent expenditures is unconstitutional as applied to nonprofit corporations with these three characteristics.

Section 114.10 of the final rules is based on this part of the *MCFL* decision, and on the Court's subsequent decision in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990). Section 114.10 lists the features of those corporations that are exempt from section 441b's prohibition on independent expenditures. It also sets out the reporting requirements for these corporations. A detailed explanation of section 114.10 is set out below.

1. General Issues Raised by the NPRM and the Commenters

a. The name given to exempt corporations. One preliminary question is the name to be used for corporations that are exempt from the independent expenditure prohibition. The Commission specifically sought comments on this issue in the Notice of Proposed Rulemaking. The NPRM referred to them as ''exempt corporations.'' However, the Commission and some of the commenters expressed concern that this name might cause confusion, because the term ''exempt'' is so closely associated with the Internal Revenue Code.

The NPRM contained an alternative version of proposed section 114.10 that used the phrase ''qualified corporation'' as the name for these organizations. The Commission believes this phrase is easy to use, and clearly distinct from terms used in other areas of the law. However, the Commission has also added the word ''nonprofit'' to make this phrase more descriptive. Thus, the name ''qualified nonprofit corporation'' or ''QNC'' will be used to refer to organizations that are exempt from the independent expenditure prohibition.

b. General concerns expressed by commenters. Some of the comments received contained general observations on the Commission's efforts to promulgate rules regarding the exemption recognized in *MCFL*. One commenter objected to any Commission effort to issue rules in this area, arguing that Commission action will inevitably narrow the standards that were clearly stated in *MCFL* and *Austin*, and would make the Commission an arbiter of First Amendment rights. The commenter alleges that this is a role for which the Commission has no constitutional or Congressionally conferred authority.

However, the Commission disagrees, and has decided to issue regulations in this area. Although the *MCFL* opinion may be quite specific by judicial standards, it leaves many administrative questions unanswered. Without new rules, the Commission would have to apply the *MCFL* decision on an *ad hoc* basis, which could result in inconsistency and would provide no guidance to the regulated community. In addition, the Commission's regulations are more readily available to the regulated community than the text of court decisions, and serve as the primary reference for Commission policy. Consequently, the rules should reflect court decisions that significantly affect the application of the FECA.

Many of the commenters felt that the proposed rules were too restrictive. One commenter said that the essence of the decision is that organizations more like voluntary political associations than business firms cannot be subjected to section 441b. This commenter argued that the three stated features should provide organizations with a safe harbor but should not be absolutely required.

As will be discussed further below, several provisions specifically criticized as too restrictive by the commenters have been eliminated from the final rules. However, it is important that the three features enunciated by the Supreme Court be included in the final rules as a threshold requirement for an

exemption from the independent expenditure prohibition. The *MCFL* Court described these three features as ''essential to [its] holding that [MCFL] may not constitutionally be bound by § 441b's restriction on independent spending.'' 479 U.S. at 263–64. The clear implication is that a corporation that does not have all three of these features can be subject to this restriction.

The U.S. Court of Appeals decision in *Day* v. *Holahan*, 34 F.3d 1356 (8th Cir. 1994), does not affect this conclusion. In that case, the Eighth Circuit decided that a Minnesota statute that closely tracked the Supreme Court's three essential features was unconstitutional as applied to a Minnesota nonprofit corporation. The Commission believes the Eighth Circuit's decision, which is controlling law in only one circuit, is contrary to the plain language used by the Supreme Court in *MCFL*, and therefore is of limited authority.

The Notice sought comments on two versions of section 114.10 that represent contrasting approaches for defining the *MCFL* exemption. The first version set out the essential features listed in the *MCFL* opinion as threshold requirements for an exemption from the independent expenditure prohibition. By following the long-standing presumption that all incorporated entities are subject to the independent expenditure prohibition in section 441b, and requiring corporations that claim to be exempt from that prohibition to demonstrate that they are entitled to an exemption, this version sought to fit the *MCFL* decision into the existing statutory framework.

The second version took the opposite approach. It presumed a broad class of corporations would be exempt from section 441b's independent expenditure prohibition, unless they have a characteristic that would bring them within the Commission's jurisdiction.

The Commission has decided to follow the first approach and incorporate the rules into the existing framework for section 441b. The Supreme Court did not conclude that all of section 441b is unconstitutional on its face. Rather, it held that one portion of section 441b, the prohibition on independent expenditures, is unconstitutional as applied to a narrow class of incorporated issue advocacy organizations. The Court explicitly reaffirmed the validity of section 441b's prohibition on corporate contributions. 479 U.S. at 259–60. Thus, the broad prohibition on the use of corporate treasury funds contained in section 441b still exists, and the Commission's responsibility for enforcing that provision remains in place.

The Commission is aware that most of the comments were in accord with the second version. These commenters argued that all organizations are entitled to unlimited First Amendment rights regardless of whether they are incorporated, and that any Commission action that has the effect of limiting those rights is unconstitutional. They felt that the first version would define the category of exempt corporations too narrowly, and would burden the speech activity of corporations that are entitled to an exemption.

However, there is a long history of regulating the political activity of corporations, and the Supreme Court has recognized the compelling governmental interest in regulating this activity on numerous occasions. ''The overriding concern behind the enactment of the [statutory predecessor to section 441b] was the problem of corruption of elected representatives through the creation of political debts. * * * The importance of the governmental interest in preventing this occurrence has never been doubted.'' *First National Bank of Boston v. Belotti*, 435 U.S. 765, 788, n.26 (1978). ''This careful legislative adjustment of the federal electoral laws . . . to account for the particular legal and economic attributes of corporations and labor organizations warrants considerable deference. . . . [I]t also reflects a permissible assessment of the dangers posed by those entities to the electoral process.'' *FEC* v. *National Right to Work Committee*, 459 U.S. 197, 209 (1982).

The *MCFL* decision reaffirms, rather than casts doubt upon, the validity of Congressional regulation of corporate political activity. In its opinion, the *MCFL* Court said ''[w]e acknowledge the legitimacy of Congress' concern that organizations that amass great wealth in the economic marketplace not gain unfair advantage in the political marketplace.'' *MCFL*, 479 U.S. at 263. The Court found the application of section 441b to MCFL unconstitutional not because this governmental interest was not compelling in general, but because MCFL was different from the majority of entities addressed by section 441b. Consequently, this governmental interest was not implicated by MCFL's activity. *Id.* The Court also acknowledged that MCFL-type corporations are the exception rather than the rule, saying that ''[i]t may be that the class of organizations affected by our holding today will be small.'' *Id.* at 264. Thus, the Commission's task is to incorporate this narrow exception to the independent expenditure prohibition into the regulations so that they protect the interests of organizations that are like MCFL without undermining the FECA's legitimate legislative purposes. The Commission has concluded that the first approach is better suited to this task.

2. Scope and Definitions

Paragraph (a) is a scope provision that explains, in general terms, the purposes of section 114.10. Paragraph (b) defines four terms for the purposes of this section.

a. The promotion of political ideas. The first term is the phrase ''the promotion of political ideas.'' The *MCFL* Court said one of MCFL's essential features was that ''it was formed for the express purpose of promoting political ideas, and cannot engage in business activities.'' 479 U.S. at 264. Paragraph (b)(1) clarifies what this phrase means for the purposes of section 114.10. Under paragraph (b)(1), the promotion of political ideas includes issue advocacy, election influencing activity, and research, training or educational activity that is expressly tied to the organization's political goals.

The Commission added the last phrase, which is based on language in the *Austin* decision, in response to several commenters who felt that the proposed definition was too narrow. These commenters said that many organizations engage in certain activities that are not pure advocacy but are directly related to their advocacy activities. They argued that organizations should be allowed to conduct these activities without losing their exemption from the independent expenditure prohibition. The Commission agrees, and has added the last phrase to the final rules to serve this purpose.

b. Express purpose. Paragraph (b)(2) defines the term ''express purpose,'' as that term is used in section 114.10. As indicated above, the Supreme Court said that MCFL was formed for the express purpose of promoting political ideas and cannot engage in business activities. *Id.* Paragraph (b)(2) states that a qualified nonprofit corporation's express purpose is evidenced by the purpose stated in the corporation's charter, articles of incorporation, or bylaws. It also may be evidenced by any purpose publicly stated by the corporation or its agents, and any activities in which the corporation actually engages.

Generally, if an organization's organic documents set out a purpose that cannot be characterized as issue advocacy, election influencing activity, or research, training or educational activity

expressly tied to political goals, the organization will not be a qualified nonprofit corporation. However, paragraph (b)(2)(i) contains an exception to this rule. If a corporation's organic documents indicate that the corporation was formed for the promotion of political ideas and ''any lawful purpose'' or ''any lawful activity,'' the latter statement will not preclude a finding under paragraph (c)(1) that the corporation's only express purpose is the promotion of political ideas. The Commission recognizes that it is common for corporations to use boilerplate purpose statements elicited from their state's incorporation statute when they prepare their articles of incorporation. These statements will not prevent such an organization from being a qualified nonprofit corporation.

One commenter objected to including those purposes evidenced by the activities in which the corporation actually engages. The commenter argued that this rule would allow the Commission to analyze the motives behind the corporation's activities.

The Commission has decided to include this provision in the final rules. Generally, corporations engage in activities that further the goals of the corporation. Thus, the corporation's activities tend to provide a more objective and complete indication of the corporation's reasons for existing. In contrast, if the Commission could look only to a corporation's organic documents for the corporation's purpose, a corporation with an appropriate purpose statement in its organic documents would be exempt from the independent expenditure prohibition, regardless of whether the activities in which it actually engages were consistent with its stated purpose or with the exemption recognized in the *MCFL* opinion.

The Commission does not intend to engage in extensive speculation about the motivations of qualified nonprofit corporations. However, it is necessary for the Commission to consider the activities in which a corporation actually engages in order to completely assess the corporation's purpose.

c. Business activities. Paragraph (b)(3) defines the term ''business activities'' for the purposes of these rules. Under paragraph (b)(3), ''business activities'' generally includes any provision of goods and services that results in income to the corporation. It also includes any advertising or promotional activity that results in income to the corporation, other than in the form of membership dues or donations. Thus, a corporation that publishers a newsletter or magazine and sells advertising space in that publication will be engaging in business activities, and will not be a qualified nonprofit corporation.

However, the definition specifically excludes fundraising activities that are expressly described as requests for donations that may be used for political purposes, such as supporting or opposing candidates. Fundraising activities conducted under these circumstances will not be considered business activities under these rules.

This definition reflects a critical distinction made by the Supreme Court in *MCFL.* The definition includes those activities that closely resemble the commercial activities of a business corporation because these activities generate financial resources that, like those of a business corporation, ''are not an indication of popular support for the corporation's political ideas * * * [but] reflect instead the economically motivated decisions of investors and customers.'' 479 U.S. at 258. Thus, these ''resources amassed in the economic marketplace'' can create ''an unfair advantage in the political marketplace.'' *Id.* at 257.

In contrast, the definition specifically excludes activities that generate resources that reflect ''popular support for the corporation's political ideas.'' *Id.* at 257. Fundraising activities that are described to potential donors as requests for donations that will be used for political purposes will generate donations that reflect popular support for the corporation's political ideas. Consequently, they do not pose the risk of giving the corporation an unfair advantage in the political marketplace.

In some cases, the fundraising activities of a qualified nonprofit corporation closely resemble business activities in that they involve a provision of goods that results in income to the corporation. For example, a qualified nonprofit corporation may sell T-shirts or calendars in order to generate funds to support its political activity. MCFL itself held garage sales, bake sales and raffles to raise funds for these purposes. However, if the corporation discloses that the activities are an effort to raise funds for its political activities, such as supporting or opposing candidates, the activities will not be considered business activities for the purposes of these rules, notwithstanding their close resemblance to ordinary business transactions.''This ensures that political resources reflect political support.'' *NCFL* at 264.

The Commission notes that this exclusion is limited to direct fundraising by the corporation. If a corporation sells items through a third party, such as a retail store or catalog mail order outlet, this will generally be considered a business activity, even if the item is accompanied by a notification that a portion of the proceeds will be used to support the corporation's political activities. The sale of items by a third party that is not a qualified nonprofit corporation justifies the application of the independent expenditure prohibition.

d. Shareholders. Paragraph (b)(4) states the term ''shareholder'' has the same meaning as the term ''stockholder,'' as defined in section 114.1(h) of the Commission's current rules.

4. The Essential Features

The Supreme Court said ''MCFL has three features essential to our holding that it may not constitutionally be bound by § 441b's restriction on independent spending.'' *MCFL* at 263–64. These features have been incorporated into paragraph 114.10(c) of the final rules. A qualified nonprofit corporation is a corporation that has all the characteristics set out in this paragraph. Corporations that do not have all of these characteristics are not qualified nonprofit corporations, and therefore are bound by the independent expenditure prohibition.

a. Purpose. Paragraph (c)(1) states that a qualified nonprofit corporation is one whose only express purpose is the promotion of political ideas. In other words, if a corporation's organic documents, authorized agents, and actual activities indicate that its purpose is issue advocacy, election influencing activity, or research, training or other activity expressly tied to the organization's political goals, the corporation may be a qualified nonprofit corporation. However, if the documents, agents or activities indicate any other purpose, the corporation will be subject to the independent expenditure prohibition.

As indicated above, the rules contain an exception for boilerplate purpose statements in a corporation's organic documents. If a corporation's organic documents indicate that the corporation was formed for the promotion of political ideas and ''any lawful purpose'' or ''any lawful activity,'' the latter statement will not preclude a finding under paragraph (c)(1) that the corporation's only express purpose is the promotion of political ideas.

One commenter argued that requiring the promotion of political ideas to be an organization's only express purpose would exclude organizations that do educational and research work on political topics with which they are concerned. It would also exclude

organizations that train people in advocacy techniques, an important part of the activities of many nonprofit corporations. The Commission has addressed these concerns by broadening the definition of the phrase ''the promotion of political ideas'' in paragraph (b)(1) to include these activities. This definition is discussed in detail above.

b. Business activities. Under paragraph (c)(2), a corporation must be unable to engage in business activities in order to be a qualified nonprofit corporation. Paragraph (c)(2) tracks the language of the *MCFL* decision in that it limits the exemption to corporations that cannot engage in business activities. Thus, in order to be exempt, business activities must be proscribed by the corporation's organic documents or other internal rules.

However, as indicated above, fundraising activities that are expressly described as requests for donations to be used for political purposes are not business activities. Consequently, a qualified nonprofit corporation can engage in fundraising activities without losing its exemption, so long as it makes the appropriate disclosure.

Most of the commenters objected to a complete prohibition on business activities. One commenter argued that the presence of minimal business activities would not have changed the result in *MCFL*. This commenter said that, despite the Supreme Court's reliance on the absence of business activities, a prohibition should not be read into the opinion, since it would unreasonably limit the activities of these organizations.

However, the plain language of the *MCFL* opinion endorses a complete prohibition on business activities. The Court said ''MCFL has three features *essential* to our holding that it cannot constitutionally be bound by § 441b's restriction on independent spending. First, it was formed for the express purpose of promoting political ideas, and cannot engage in business activities.'' *MCFL*, 479 U.S. at 264 (emphasis added). This statement clearly supports a total ban on business activities.

In addition, other parts of the opinion make it clear that the Court based its conclusion on the complete absence of any business activities, and strongly suggest that the presence of business activities would have changed the result. Earlier, the Court said that ''the concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL. It is not the case * * * that MCFL merely poses less of a threat of the danger that has prompted regulation. Rather, it does not pose such a threat at all.'' 479 U.S. at 263. In order to pose no such threat, a corporation must be free from resources obtained in the economic marketplace. Only those corporations that cannot engage in business activities are free from these kinds of resources.

This approach will not unreasonably limit the activities of a qualified nonprofit corporation. The corporation has at least two options for generating revenue under the final rules. First, the corporation can engage in unlimited fundraising activities, so long as it informs potential donors that it is seeking donations that will be used for political purposes, such as supporting or opposing candidates. Second, the corporation can establish a separate segregated fund and make its independent expenditures exclusively from that fund.

Several other commenters also felt that a limited amount of business activity should be allowed, and argued that the Commission should incorporate the tax law concepts of related and unrelated business activity into the final rules. Under this approach, income from activity that is related to the corporation's mission would not be considered business activity, and as such, would not affect its qualified nonprofit corporation status. In addition, qualified nonprofit corporations would be permitted to engage in some unrelated business activity, so long as it does not become the organization's primary purpose.

However, reliance on these tax law concepts would be inappropriate here because the tax code was drafted to serve different purposes. Section 501(c)(4) of the tax code grants tax exempt status to organizations that promote the social welfare. In exercising its administrative discretion, the Internal Revenue Service has concluded that it is appropriate to allow social welfare organizations to engage in some unrelated business activity so long as it does not become their primary purpose, apparently believing that a limited amount of business activity is not incompatible with the promotion of social welfare.

In contrast, section 441b seeks to prevent the use of resources amassed in the economic marketplace to gain an unfair advantage in the political marketplace. The *MCFL* Court concluded that a complete prohibition on the use of resources amassed in the economic marketplace is necessary to serve this purpose. Thus, the Commission has incorporated this prohibition into the final rules.

c. *Shareholders/disincentives to disassociate.* The second feature that distinguished MCFL from other corporations was that ''it ha[d] no shareholders or other persons affiliated so as to have a claim on its assets or earnings.'' 479 U.S. at 264. The Supreme Court said this ''ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity.'' *Id.* Later, in *Austin*, the Court said that persons other than shareholders may also face disincentives to disassociate with the corporation. ''Although the Chamber also lacks shareholders, many of its members may be similarly reluctant to withdraw as members even if they disagree with the Chamber's political expression, because they wish to benefit from the Chamber's nonpolitical programs. * * * The Chamber's political agenda is sufficiently distinct from its educational and outreach programs that members who disagree with the former may continue to pay dues to participate in the latter.'' 494 U.S. at 663.

These characteristics have been incorporated into paragraph (c)(3) of the final rules. In the interests of clarity, the rules separate these two characteristics into separate subparagraphs. Only those corporations that have the characteristics set out in both subparagraphs are exempt from the independent expenditure prohibition.

i. Shareholders. Under paragraph (c)(3)(i), a qualified nonprofit corporation is one that has no shareholders or other persons affiliated in a way that could allow them to make a claim on the organization's assets or earnings. Thus, if any of the persons affiliated with a corporation have an equitable or ownership interest in the corporation, the corporation will not be a qualified nonprofit corporation.

One commenter said the limitation on persons with claims against the corporation is unnecessary, and also said it should be coupled with an explanation that this restriction will not deprive a corporation of the right to have dues-paying members.

The Commission believes this limitation is necessary to ensure that associational decisions are based entirely on political considerations. However, this limitation will not adversely affect corporations with dues-paying members. In most cases, dues payments are not investments made with an expectation of return or repayment. They do not give members any right to the corporation's assets or earnings. Consequently, the existence of

dues-paying members will not affect the corporation's exempt status.

Two commenters expressed concern that paragraph 114.10(c)(3)(i) could be read to deny exempt status to corporations with employees or creditors, because an employee of a qualified nonprofit corporation could have a claim against the corporation for wages, and a creditor could have a claim against the corporation on a debt.

The Commission has revised this provision in accordance with these comments. Claims held by employees and creditors with no ownership interest in the corporation arise out of arms-length employment or credit relationships, rather than an equitable interest in the corporation. Consequently, they will not be treated as claims on the corporation's assets or earnings that affect the corporation's exemption from the independent expenditure prohibition.

ii. Disincentives to disassociate. Paragraph (c)(3)(ii) limits the exemption to corporations that do not offer benefits that are a disincentive for recipients to disassociate themselves with the corporation on the basis of its position on a political issue. Thus, if the corporation offers a benefit that recipients lose if they end their affiliation with the corporation, or cannot obtain unless they become affiliated, the corporation will not be a qualified nonprofit corporation. This provision ensures that the associational decisions of persons who affiliate themselves with the corporation are based exclusively on political, rather than economic, considerations.

The rule contains examples of benefits that will be considered disincentives to disassociate with the corporation. First, credit cards, insurance policies and savings plans will be considered disincentives to disassociate. Consequently, corporations that offer such things as affinity credit cards or life insurance will not be qualified nonprofit corporations.

Second, training, education and business information will be considered disincentives to disassociate from the corporation, unless the corporation provides these benefits to enable the persons who receive them to help promote the group's political ideas. This provision allows a qualified nonprofit corporation to provide its volunteers with the training and information they need to advocate its issues. However, if the corporation provides other kinds of training or information that is not needed for its issue advocacy work, the corporation will not be a qualified nonprofit corporation.

One commenter objected to paragraph (c)(3)(ii), saying that it would prevent most organizations from qualifying for the exemption. Other commenters urged the Commission to distinguish between benefits that are related to the corporation's issue advocacy work, or grow out of it, and those that are unrelated to that work, saying that only the latter should be regarded as disincentives to disassociate. These commenters also recommended that a substantiality test be used, so that benefits that are insubstantial or create an insignificant disincentive to disassociate would not disqualify the corporation.

The Commission has revised this section to address some of the concerns raised by the commenters. As indicated above, paragraph 114.10(c)(3)(ii) has been revised to say that, if a corporation provides training or education that is necessary to promote the organization's political ideas, the training will not be considered an incentive to associate or disincentive to disassociate.

However, the Commission has decided against including a substantiality test for benefits that ostensibly create a less significant disincentive to disassociate with the corporation. Any disincentive, no matter how small, can influence an individual's associational decisions, particularly where the ''cost'' to the individual of obtaining the benefit is only a small yearly donation to the corporation. For example, a corporation might offer donors access to affinity credit cards with no annual fee. Although the actual dollar value of such a benefit may be insignificant, it could easily offset the donor's annual donation to the corporation. Thus, membership levels would partially reflect the popularity of the benefit being offered, rather than exclusively reflecting the popularity of the group's political ideas.

Including a substantiality test would also force the Commission to determine which benefits are substantial enough to influence a particular individual's decision whether or not to continue associating with an organization. The Commission is reluctant to make these difficult subjective determinations if they can be avoided. Consequently, the final rule does not contain a substantiality threshold for disincentives to disassociate with the corporation.

e. Relationship with business corporations and labor organizations. The Supreme Court said that one of the reasons MCFL was exempt from the independent expenditure prohibition was that it ''was not established by a business corporation or labor union, and it is its policy not to accept contributions from such entities.'' *MCFL*, 479 U.S. at 264. This characteristic has been incorporated into paragraph (c)(4) of the final rules. The final rule has been broken down into three subparagraphs for purposes of clarity.

Paragraph (c)(4)(i) implements the first part of the Court's statement. Only corporations that were not established by a business corporation or labor organization can be eligible for an exemption from, the independent expenditure prohibition. Thus, corporations that are set up by business corporations or labor organizations cannot be qualified nonpropfit corporations.

Paragraph (c)(4)(ii) limits the exemption to corporations that do not directly or indirectly accept donations of anything of value from business corporations or labor organizations. This includes donations received directly from these entities, and donations that pass through a third organization. Thus, if a corporation accepts donations from an organization that accepts donations from these entities, the corporation will not be a qualified nonprofit corporation.

The rule also limits the exemption to corporations that can provide some assurance that they do not accept donations from business corporations or labor organizations. Under paragraph (c)(4)(iii), if the corporation can demonstrate, through accounting records, that it has not accepted any donations from business corporations and labor organizations in the past from business corporations and labor organizations in the past, it will be eligible for the exemption. If it is unable, for good cause, to make this showing, it can provide adequate assurance by showing that it has a documented policy against accepting donations from these entities. In order to be documented, this policy must be embodied in the organic documents of the corporation, the minutes of a meeting of the governing board, or a directive from the person that controls the day-to-day operation of the corporation.

Most of the commenters objected to an absolute ban on the acceptance of business corporation and labor organization donations, arguing that a ban is not necessary and is not supported by the court decisions. Several commenters argued that *MCFL's* third requirement is met when an organization is free from the influence of business corporations. Others urged the Commission to focus not on the level of donations but on whether the

corporation is acting as a ''conduit'' for business corporation and labor organization funds. One commenter suggested that the Commission engage in factual analyses to determine whether an organization is under the influence of a business corporation or labor organization or is acting as a conduit for the funds of such an organization.

However, the language of the *MCFL* opinion supports a prohibition on business corporation and labor organization donations. The *MCFL* Court said that one of the features ''essential to [its] holding that [MCFL] may not constitutionally be bound by § 441b's restriction on independent spending'' was that ''MCFL was not established by a business corporation or a labor union, and *it is its policy not to accept contributions from such entities*.'' 479 U.S. at 263–64 (emphasis added). The Court concluded that the existence of this policy ''prevents [qualified nonprofit] corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.'' *Id.* Thus, although the *MCFL* Court was concerned that business corporations and labor organizations could improperly influence qualified nonprofit corporations and use them as conduits to engage in political spending, the Court saw MCFL's policy of not accepting business corporation or labor organization donations as the way to address these concerns.

The *Austin* decision explains why a complete prohibition on these donations is necessary to serve the purposes of section 411b. In concluding that the Michigan Chamber of Commerce was not an MCFL-type corporation, the Court recognized that the danger of ''unfair deployment of wealth for political purposes'' exists whenever a business corporation or labor organization is able to funnel donations through a qualified nonprofit corporation. ''Because the Chamber accepts money from for-profit corporations, it could, absent application of [Michigan's version of section 441b], serve as a conduit for corporate political spending.'' *Austin*, 494 U.S. at 664. ''Business corporations * * * could circumvent the [independent expenditure] restriction by funneling money through the Chamber's general treasury.'' *Id.*

Therefore, the Commission has limited the exemption to corporations that do not accept donations from business corporation or labor organizations. The Commission believes it would be impractical to engage in factual analyses to determine whether an organization is actually influenced by a business corporation or labor organization or is acting as a conduit for the funds of these entities. Furthermore, nothing in the Court's decisions suggests that the Commission must engage in such an inquiry. In fact, the Court has specifically said that, with regard to the application of section 441b, it will not ''second-guess a legislative determination as to the need for prophylactic measures where corruption is the evil feared.'' *FEC* v. *National Right to Work Committee*, 459 U.S. 197, 210 (1982) (''*NRWC*'').

Two commenters said it is impossible to screen out all such donations, and asserted that incidental or inadvertent business corporation or labor organization receipts should be permitted. One commenter suggested a *de minimis* test for a qualified nonprofit corporation's overall level of corporate or labor support, and limits on the percentage that could be accepted from a single contributor. Another commenter said the Commission should allow qualified nonprofit corporations to accept a *de minimis* amount of corporate or labor organization donations, so long as the corporation segregates these donations in a separate account and allocates expenses so that the corporate funds are not used to make independent expenditures.

In applying this rule, the Commission will distinguish inadvertent acceptance of prohibited donations from knowing acceptance of a *de minimis* amount of prohibited donations. Inadvertently accepted prohibited donations will not affect a corporation's qualification for an exemption from the independent expenditure prohibition. However, knowingly accepted prohibited donations will void a corporation's exemption, even if the corporation accepts only a *de minimis* amount. The Commission notes that political committees are required to screen their receipts for prohibited contributions. Most committees do so successfully, even though many of them are small and have limited resources. Qualified nonprofit corporations will also be expected to adopt a mechanism for screening their receipts for prohibited contributions in order to remain exempt from the independent expenditure prohibition.

Finally, the Commission notes that, in most cases, the prohibition on indirect business corporation and labor organization donations in paragraph (c)(4)(ii), discussed above, will not affect qualified nonprofit corporations that receive grants from organizations that are tax exempt under section 501(c)(3). Some qualified nonprofit corporations, all of which are section 501(c)(4) tax exempt organizations under the final rules, may receive grants from section 501(c)(3) organizations. Because section 501(c)(3) organizations can accept donations from business corporations and labor organizations, paragraph (c)(4)(ii) could be read to disqualify an otherwise qualified nonprofit corporation if it receives a grant from a section 501(c)(3) organization.

However, under IRS rules, section 501(c)(4) organizations that receive funds from a section 501(c)(3) organization are required to use those funds in a way that is consistent with the section 501(c)(3) organization's exempt purpose. Since political campaign intervention is never consistent with a section 501(c)(3) organization's exempt purpose, the recipient section 501(c)(4) organization is not supposed to use the grant for campaign activity. ''[O]therwise, public funds might be spent on an activity that Congress chose not to subsidize.'' *Regan* v. *Taxation With Representation*, 461 U.S. 540, 544 (1982). So long as these safeguards exist, the Commission will not regard a grant from a section 501(c)(3) organization to a qualified nonprofit corporation as an indirect donation from a business corporation or labor organization. Consequently, the grant will not affect the organization's exemption from the independent expenditure prohibition.

f. Section 501(c)(4) status. Paragraph (c)(5) of the final rules limits the exemption from the independent expenditure prohibition to corporations that are described in 26 U.S.C. 501(c)(4). Section 501(c)(4) describes a class of organizations known as social welfare organizations that are exempt from certain tax obligations. Under section 501(c)(4), a social welfare organization is not organized for profit but is operated exclusively for the promotion of social welfare. A corporation must be a social welfare organization in order to be exempt from the prohibition on independent expenditures.

IRS regulations state that the promotion of social welfare does not include ''direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate.'' 26 CFR 1.501(c)(4)–1(a)(2)(ii). However, the rules also state that an organization is operated exclusively for the promotion of social welfare if it is ''primarily'' engaged in promoting the common good and general welfare of the people of the community. 26 CFR 1.501(c)(4)–1(a)(2)(i). Thus, the rules allow social welfare organizations to engage in a limited amount of political activity.

The commenters expressed varying views on this provision and its relationship to the rest of the proposed rules. Two commenters argued that section 501(c)(4) organizations should be presumptively exempt, regardless of whether they have any of the other characteristics of a qualified nonprofit corporation. In contrast, two other commenters said that the additional characteristics should be included in the final rules. These two commenters noted that the Internal Revenue Code allows business corporations and labor organizations to make direct donations to section 501(c)(4) organizations. Thus, the additional characteristics must be included in order to limit the exemption from the independent expenditure prohibition to the kind of organizations described in the *MCFL* opinion.

The Commission has decided not to recognize a presumption that social welfare organizations are qualified nonprofit corporations solely because of their section 501(c)(4) status. Although the characteristics of a social welfare organization overlap to some extent with MCFL's three essential features, they are not identical. This difference results from the fact that the tax code was written to serve different purposes than the FECA. Thus, it would be inappropriate to presume that all social welfare organizations are entitled to an exemption from the independent expenditure prohibition.

Furthermore, the Internal Revenue Service often uses general legal principles to enforce the provisions of the tax code. Thus, there will often be no clearly stated IRS rule or policy that the Commission can refer to in making its determinations. In addition, filing for formal recognition of tax exempt status under section 501(c)(4) is permissive, not required. As a result, the Commission will not be able to rely on the IRS for verification of an organization's tax exempt status.

Therefore, the Commission has decided to include the additional characteristics in the final rules, and limit the exemption from the independent expenditure prohibition to corporations with these characteristics.

5. Other Requirements Not Included in the Final Rules

The Notice of Proposed Rulemaking contained a number of proposed requirements that are not included in the final rules. These proposals are summarized below.

a. Affiliation with a separate segregated fund. One proposal would have denied the exemption to corporations that have a separate segregated fund. This proposal would have the effect of requiring corporations that have separate segregated funds to make independent expenditures solely from that fund, regardless of whether they have the characteristics of a qualified nonprofit corporation.

The commenters were universally opposed to this proposal. One commenter said such a rule would be impossible to apply, and would lead to a nonsensical result whereby small, unsuccessful groups would be able to make independent expenditures with general treasury funds, while larger, more successful groups would be required to use their separate segregated funds. Another commenter said that there is no governmental interest in denying the exemption to organizations with separate segregated funds, because the existence of such a fund does not create a danger that the organization will flood the electoral process with business profits. A third commenter objected to this criterion, arguing that the constitutional theory underlying the *MCFL* decision did not rely upon MCFL's allegations of the difficulty faced by small nonprofits attempting to comply with FEC regulations.

Although a bright line rule such as this one would be very useful in implementing the Court decisions, the Commission has not included this proposal in the final rules. Consequently, corporations with these characteristics will be exempt from the independent expenditure prohibition regardless of whether they have a separate segregated fund.

b. Eligibility to file IRS Form 990EZ. The NPRM proposed to limit the exemption from the independent expenditure prohibition to corporations with limited financial resources by requiring them to be eligible to file their tax returns on Internal Revenue Service Form 990EZ. Form 990EZ is available to organizations that have gross receipts during the year of less than $100,000 and total assets at the end of the year of less than $250,000.

Most commenters objected to this proposal. Several commenters observed that an organization's size was not included in the list of essential features, and also said that it has no relationship to the justification given for the regulation of corporate political speech. One commenter argued that the filing eligibility levels are so low that most ''substantial'' organizations would not qualify for an exemption.

In contrast, one commenter supported the use of the Form 990EZ eligibility thresholds as a criterion for an exemption from the independent expenditure prohibition. This commenter thought it should be used to prevent groups with extensive financial resources from exacting political debts from candidates by giving them significant support. He argued that there is a compelling state interest in preventing organizations from seeking a quid pro quo.

The Commission is concerned that this proposal may be difficult to administer, and so has decided not to include it in the final rules. The Internal Revenue Service submitted comments in which it noted that only those section 501(c)(4) organizations that are formally recognized as tax exempt can file Form 990 or 990EZ. Organizations that are not formally recognized must file as taxable organizations, usually on Form 1120. Consequently, there may not be an easy way to confirm an organization's eligibility to file Form 990EZ. In addition, organizations with less than $25,000 in annual gross receipts have no real need to seek formal recognition, since they are not required to file tax returns at all. Thus, there will be no way to confirm the filing eligibility of these organizations.

The IRS also noted that the eligibility requirements for filing Form 990EZ may change from time to time. This would have the effect of changing the eligibility requirements for an exemption from the independent expenditure prohibition.

Consequently, the Commission has excluded this proposal from the final rules. Corporations with the characteristics in paragraph (c) will be exempt regardless of whether they are eligible to file Form 990EZ.

c. Less sophisticated fundraising techniques. The narrative portion of the NPRM indicated that the Commission was considering limiting the exemption to groups that use the less sophisticated fundraising techniques typically employed by grass roots organizations. One criterion considered would deny the exemption to organizations that utilize more formalized fundraising methods such as direct mail solicitation.

However, the Commission has decided not to include this in the final rules. Corporations with the characteristics set out in paragraph (c) will be exempt from the independent expenditure prohibition regardless of how they raise funds, so long as their fundraising activity is not business activity under paragraph (b)(3) of the final rules.

6. Reconstituting as a Qualified Nonprofit Corporation

The Commission recognizes that some corporations that are not qualified nonprofit corporations may wish to reconstitute themselves so that they

qualify for an exemption from the independent expenditure prohibition. In order to become a qualified nonprofit corporation, a corporation must adopt the essential characteristics set out in paragraph (c) of the final rules. In addition, the corporation must purge its accounts of corporate and labor organization donations and implement a policy to ensure that it does not accept these donations in the future. Once it adopts the essential characteristics, purges its accounts, and implements such a policy, the corporation will become a qualified nonprofit corporation.

7. Permitted Corporate Independent Expenditures

Paragraph (d) states that qualified nonprofit corporations can make independent expenditures, as defined in 11 CFR Part 109, without violating the prohibitions on corporate expenditures in 11 CFR Part 114. However, this paragraph also emphasizes that qualified nonprofit corporations remain subject to the other requirements and limitations in Part 114, in particular, the prohibition on corporate contributions, whether monetary or in-kind.

The Commission received no comments on this provision, and has retained it in the final rules.

8. Reporting Requirements

Paragraph (e) requires a corporation that makes independent expenditures to certify that it is a qualified nonprofit corporation under this section and report its independent expenditures. The procedures for certifying exempt status are set out in paragraph (e)(1). The requirements for reporting independent expenditures are set out in paragraph (e)(2).

Under paragraph (e)(1), the corporation must certify that it is eligible for an exemption from the independent expenditure prohibition. This certification must be submitted no later than the date upon which the corporation's first independent expenditure report is due under paragraph (e)(2), which will be described in detail below. However, the corporation is not required to submit this certification prior to making independent expenditures. The certification can be made as part of FEC Form 5, which the Commission will be modifying for use in this situation. Or, the corporation can submit a letter that contains the name, address, signature and printed name of the individual filing the report, and certifies that the corporation has the characteristics set out in paragraph (c).

One of the alternatives set out in the NPRM would have required qualified nonprofit corporations to submit much more detailed information in order to qualify for exempt status. The Commission decided not to include these requirements in the final rules in order to minimize the reporting burdens on qualified nonprofit corporations. Instead, the Commission has decided to require only that corporations certify that they have the characteristics of a qualified nonprofit corporation when they make independent expenditures. This will ensure that corporations claiming to be exempt are aware of the characteristics required to qualify for an exemption.

Paragraph (e)(2) states that qualified nonprofit corporations must comply with the independent expenditure reporting persons who make independent expenditures in excess of $250 in a calendar year to report those expenditures using FEC Form 5. This report must include the name and mailing address of the person to whom the expenditures was made, the amount of the expenditure, an indication as to whether the expenditure was in support of or in opposition to a candidate, and a certification as to whether the corporation made the expenditure in cooperation or consultation with the candidate. The names of persons who contributed more than $200 towards the expenditure must also be reported.

Thus, the final rules treat qualified nonprofit corporations as individuals for the purposes of the reporting requirements. This is one of the least burdensome reporting schemes contained in the FECA. The *MCFL* Court specifically endorsed this approach when it said that the disclosure provisions of 2 U.S.C. 434(c) will ''provide precisely the information necessary to monitor [the corporation's] independent spending activity and its receipt of contributions.'' *MCFL*, 479 U.S. at 262. None of the commenters discussed the proposed independent expenditure reporting requirements.

In another part of its opinion, the *MCFL* Court also said that ''should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee.'' *MCFL*, 479 U.S. at 262. The proposed rules set out a test for determining a corporation's major purpose, and also contained proposed reporting requirements related to that test. These reporting requirements were set out in paragraph (e) of the proposed rules.

As will be discussed further below, the Commission has decided not to address this part of the Court's opinion in the final rules being promulgated today, preferring to do so at a later date as part of a separate rulemaking. Consequently, the reporting requirements related to the major purpose test have been deleted from paragraph (e) of the final rules. However, these rules may eventually be amended to require reporting of information related to the major purpose concept. Any such changes will be made as part of the separate rulemaking.

9. Solicitation Disclosure

Section 114.10(f) of the final rules states that when a qualified nonprofit corporation solicits donations, the solicitation must inform potential donors that their donations may be used for political purposes, such as supporting or opposing candidates. This rule, which has been modified slightly from the proposed rule, requires qualified nonprofit corporations to include a disclosure statement in their solicitations for donations.

One commenter called this an ''unjustifiable roadblock'' to the exercise of constitutional rights by small nonprofit corporations, and speculated that the people who run these organizations won't know about this requirement until after a complaint is filed against them.

However, this disclosure requirement directly serves the purposes of the *MCFL* exemption. In carving out this exemption, the Supreme Court said ''[t]he rationale for regulation is not compelling with respect to independent expenditures by [MCFL]'' because ''[i]ndividuals who contribute to appellee are fully aware of its political purposes, and in fact contribute precisely because they support those purposes.'' *MCFL* at 260–61. ''*Given a contributor's awareness of the political activity of [MCFL],* as well as the readily available remedy of refusing further donations, the interest [of] protecting contributors is simply insufficient to support § 441b's restriction on the independent spending of MCFL.'' *Id.* at 262 (emphasis added).

The *MCFL* Court went on to endorse the disclosure requirement as a way to ensure that persons who make donations are aware of how those donations may be used. The Court said the need to make donors aware that their donations may be used to ''urge support for or opposition to political candidates'' can be met by ''simply requiring that contributors be informed that their money may be used for such a purpose.'' *MCFL*, 479 U.S. at 261.

Furthermore, the Commission does not regard anticipated ignorance of a regulation as a legitimate argument against the promulgation of that regulation, particularly when the regulation will implement the Commission's statutory mandate and the holding of a Supreme Court decision.

Therefore, the Commission has included this requirement in the final rules. The Commission does not expect this requirement to impose a significant burden on qualified nonprofit corporations. For example, corporations need not say anything more than ''donations to xyz organization may be used for political purposes, such as supporting or opposing candidates,'' or similar language, in order to satisfy this requirement. This will ensure that donors are aware of the corporation's campaign activity.

10. Non-authorization Notification

Paragraph (g) of the final rules requires qualified nonprofit corporations that make independent expenditures to comply with the disclaimer requirements in 11 CFR 110.11. Section 110.11 requires any person financing an express advocacy communication to include a statement in the communication identifying who paid for it. 11 CFR 110.11(a)(1). This statement must also identify the candidate or committee who authorized the communications, unless the communications was not authorized by any candidate or committee, in which case, it must so indicate. 11 CFR 110.11(a)(1)(iii). Thus, a qualified nonprofit corporation that finances an independent expenditure must include a disclaimer that states the name of the corporation and indicates that the communication was not authorized by any candidate or candidate's committee. The Commission received no comments on this provision.

11. Major Purpose

In *MCFL*, the Court said that ''should MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. * * * As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns.'' 479 U.S. at 262 (citation omitted).

The NPRM sought comments on a number of issues related to this part of the Court's opinion. For example, the notice set out two alternative versions of a test for determining whether a qualified nonprofit corporation's major purpose is making independent expenditures. The notice also specifically sought comments on whether these tests should turn on whether independent expenditures are ''a'' major purpose or ''the'' major purpose of the corporation. As discussed above, the notice also contained proposed requirements for reporting the information that the Commission would need for these tests. Several commeters submitted views on these issues.

The Commission has decided not to address this part of *MCFL* in the final rules. In its administration of the Act, the Commission is applying a major purpose concept in other contexts that do not involve qualified nonprofit corporations. The Commission would prefer to promulgate a major purpose test that will govern in all of these situations. Such a rule is beyond the scope of this rulemaking.

Therefore, the Commission has decided to initiate a separate rulemaking to address this part of *MCFL* and other outstanding issues. Any further definition or refinement of the major purpose concept and the associated reporting requirements will be done in that rulemaking. The comments submitted on these issues in response to the NPRM will be considered as part of this separate rulemaking.

However, in the meantime, the Commission cautions, that, ''should [a qualified nonprofit corporation's] independent spending become so extensive that [its] major purpose may be regarded as campaign activity,'' it will be treated as a political committee under the FECA and subject to the applicable regulations.

Certification of No Effect Pursuant to 5 U.S.C. § 605(b) [Regulatory Flexibility Act]

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that the definition of express advocacy will not have a significant economic impact on a substantial number of small entities. In addition, as anticipated by the Supreme Court in *MCFL*, there may not be a substantial number of small entities affected by the final rules. The new disclosure rules for qualified nonprofit corporations, which are small entities, are the least burdensome requirements possible under the FECA.

List of Subjects

11 CFR Part 100

Elections

11 CFR Part 106

Campaign funds
Political candidates
Political committees and parties

11 CFR Part 109

Campaign funds
Elections
Polticial candidates
Political committees and parties
Reporting requirements

11 CFR Part 114

Business and industry
Elections
Labor

For the reasons set out in the preamble, Subchapter A, Chapter I of Title 11 of the *Code of Federal Regulations* is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for 11 CFR Part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. 11 CFR Part 100 is amended by revising section 100.17 to read as follows:

§ 100.17 Clearly identified (2 U.S.C. 431(18)).

The term *clearly identified* means the candidate's name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as ''the President,'' ''your Congressman,'' or ''the incumbent,'' or through an unambiguous reference to his or her status as a candidate such as ''the Democratic presidential nominee'' or ''the Republican candidate for Senate in the State of Georgia.''

3. 11 CFR Part 100 is amended by adding section 100.22 to read as follows:

§ 100.22 Expressly advocating (2 U.S.C. 431(17)).

Expressly advocating means any communication that—(a) Uses phrases such as ''vote for the President,'' ''re-elect your Congressman,'' ''support the Democratic nominee,'' ''cast your ballot for the Republican challenger for U.S. Senate in Georgia,'' ''Smith for Congress,'' ''Bill McKay in '94,'' ''vote Pro-Life'' or ''vote Pro-Choice'' accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, ''vote against Old Hickory,'' ''defeat'' accompanied by a picture of one or more candidate(s),

''reject the incumbent,'' or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say ''Nixon's the One,'' ''Carter '76,'' ''Reagan/Bush'' or ''Mondale!''; or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

4. The authority citation for 11 CFR Part 106 continues to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

5. 11 CFR Part 106 is amended by revising paragraph (d) of section 106.1 to read as follows:

§ 106.1 Allocation of expenses between candidates.

* * * * *

(d) For purposes of this section, *clearly identified* shall have the same meaning as set forth at 11 CFR 100.17.

* * * * *

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

6. The authority citation for 11 CFR Part 109 continues to read as follows:

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

7. 11 CFR Part 109 is amended by revising paragraphs (b)(1), (b)(2) and (b)(3) of section 109.1 to read as follows:

§ 109.1 Definitions (2 U.S.C. 431(17)).

* * * * *

(b) For purposes of this definition—

(1) *Person* means an individual, partnership, committee, association, qualified nonprofit corporation under 11 CFR 114.10(c), or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see part 114) but does not mean a labor organization, corporation not qualified under 11 CFR 114.10(c), or national bank.

(2) *Expressly advocating* shall have the same meaning as set forth at 11 CFR 100.22.

(3) *Clearly identified* shall have the same meaning as set forth at 11 CFR 100.17.

* * * * *

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

8. The authority citation for Part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

9. 11 CFR Part 114 is amended by revising paragraph (b) of section 114.2 to read as follows:

§ 114.2 Prohibitions on contributions and expenditures.

* * * * * * *

(b) Except as provided at 11 CFR 114.10, any corporation whatever or any labor organization is prohibited from making a contribution or expenditure as defined in 11 CFR 114.1(a) in connection with any Federal election.

* * * * *

10. 11 CFR Part 114 is amended by adding section 114.10 to read as follows:

§ 114.10 Nonprofit corporations exempt from the prohibition on independent expenditures.

(a) *Scope.* This section describes those nonprofit corporations that qualify for an exemption from the prohibition on independent expenditures contained in 11 CFR 114.2. It sets out the procedures for demonstrating qualified nonprofit corporation status, for reporting independent expenditures, and for disclosing the potential use of donations for political purposes.

(b) *Definitions.* For the purposes of this section—

(1) *The promotion of political ideas* includes issue advocacy, election influencing activity, and research, training or educational activity that is expressly tied to the organization's political goals.

(2) A corporation's *express purpose* includes:

(i) The corporation's purpose as stated in its charter, articles of incorporation, or bylaws, except that a statement such as ''any lawful purpose,'' ''any lawful activity,'' or other comparable statement will not preclude a finding under paragraph (c) of this section that the corporation's only express purpose is the promotion of political ideas;

(ii) The corporation's purpose as publicly stated by the corporation or its agents; and

(iii) Purposes evidenced by activities in which the corporation actually engages.

(3) (i) The term *business activities* includes but is not limited to:

(A) Any provision of goods or services that results in income to the corporation; and

(B) Advertising or promotional activity which results in income to the corporation, other than in the form of membership dues or donations.

(ii) The term *business activities* does not include fundraising activities that are expressly described as requests for donations that may be used for political purposes, such as supporting or opposing candidates.

(4) The term *shareholder* has the same meaning as the term *stockholder*, as defined in 11 CFR 114.1(h).

(c) *Qualified nonprofit corporations.* For the purposes of this section, a qualified nonprofit corporation is a corporation that has all the characteristics set forth in paragraphs (c)(1) through (c)(5) of this section:

(1) Its only express purpose is the promotion of political ideas, as defined in paragraph (b)(1) of this section;

(2) It cannot engage in business activities;

(3) It has:

(i) No shareholders or other persons, other than employees and creditors with no ownership interest, affiliated in any way that could allow them to make a claim on the organization's assets or earnings; and

(ii) No persons who are offered or who receive any benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of the corporation's position on a political issue. Such benefits include but are not limited to:

(A) Credit cards, insurance policies or savings plans; and

(B) Training, education, or business information, other than that which is necessary to enable recipients to engage in the promotion of the group's political ideas.

(4) It:

(i) Was not established by a business corporation or labor organization;

(ii) Does not directly or indirectly accept donations of anything of value from business corporations, or labor organizations; and

(iii) If unable, for good cause, to demonstrate through accounting records that paragraph (c)(4)(ii) of this section is satisfied, has a written policy against accepting donations from business corporations or labor organizations; and

(5) It is described in 26 U.S.C. 501(c)(4).

(d) *Permitted corporate independent expenditures.*

(1) A qualified nonprofit corporation may make independent expenditures, as defined in 11 CFR part 109, without violating the prohibitions against corporate expenditures contained in 11 CFR part 114.

(2) Except as provided in paragraph (d)(1) of this section, qualified nonprofit corporations remain subject to the requirements and limitations of 11 CFR part 114, including those provisions prohibiting corporate contributions, whether monetary or in-kind.

(e) *Qualified nonprofit corporations; reporting requirements.*

(1) *Procedures for demonstrating qualified nonprofit corporation status.* If a corporation makes independent expenditures under paragraph (d)(1) of this section that aggregate in excess of $250 in a calendar year, the corporation shall certify, in accordance with paragraph (e)(1)(ii) of this section, that it is eligible for an exemption from the prohibitions against corporate expenditures contained in 11 CFR part 114.

(i) This certification is due no later than the due date of the first independent expenditure report required under paragraph (e)(2). However, the corporation is not required to submit this certification prior to making independent expenditures.

(ii) This certification may be made either as part of filing FEC Form 5 (independent expenditure form) or by submitting a letter in lieu of the form. The letter shall contain the name and address of the corporation and the signature and printed name of the individual filing the qualifying statement. The letter shall also certify that the corporation has the characteristics set forth in paragraphs (c)(1) through (c)(5) of this section.

(2) *Reporting independent expenditures.* Qualified nonprofit corporations that make independent expenditures aggregating in excess of $250 in a calendar year shall file reports as required by 11 CFR 109.2.

(f) *Solicitation; disclosure of use of contributions for political purposes.* Whenever a qualified nonprofit corporation solicits donations, the solicitation shall inform potential donors that their donations may be used for political purposes, such as supporting or opposing candidates.

(g) *Non-authorization notice.* Qualified nonprofit corporations making independent expenditures under this section shall comply with the requirements of 11 CFR 110.11.

Dated: June 30, 1995.

Danny L. McDonald,

Chairman.

[FR Doc. 95–16502 Filed 7–5–95; 8:45 am]

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Federal Register

Thursday
July 6, 1995

Part VII

Pension Benefit Guaranty Corporation

29 CFR Part 2628

Annual Financial and Actuarial Information Reporting; Proposed Rule

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2628

RIN 1212–AA78

Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing regulations to implement a new requirement under section 4010 of the Employee Retirement Income Security Act of 1974. Section 4010 requires controlled groups maintaining plans with large amounts of underfunding to submit annually to the PBGC financial and actuarial information as prescribed by the PBGC.

DATES: Comments must be received on or before September 5, 1995.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or hand-delivered to Suite 340 at the above address. Comments will be available for inspection at the PBGC's Communications and Public Affairs Department, Suite 240, 1200 K Street, NW., Washington, DC 20005–4026.

FOR FURTHER INFORMATION CONTACT: Frank H. McCulloch, Senior Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4116 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION:

Background

Section 772(a) of the Retirement Protection Act of 1994 (subtitle F of title VII of the Uruguay Round Agreements Act, Pub. L. 103–465, 108 Stat. 4809 (1994)) added section 4010 to ERISA. Under section 4010, certain contributing sponsors and all members of their controlled groups must submit annually to the PBGC financial and actuarial information as prescribed by the PBGC in regulations.

Who Must File

Under section 4010 of ERISA, each contributing sponsor of a pension plan and each member of its controlled group is obligated to submit information to the PBGC if (1) the aggregate unfunded vested benefits of all plans maintained by the members of the controlled group exceed $50 million; (2) the conditions specified in section 302(f) of ERISA and section 412(n) of the Internal Revenue Code for imposing a lien for missed contributions exceeding $1 million have been met with respect to any plan maintained by any member of the controlled group; or (3) the Internal Revenue Service has granted minimum funding waivers in excess of $1 million to any plan maintained by any member of the controlled group, and any portion of the waivers is still outstanding. The regulation defines each entity obligated to submit information to the PBGC as a ''Filer'' (§ 2628.4).

''Unfunded vested benefits'' for the $50 million test are determined in the same manner used to determine unfunded vested benefits for purposes of calculating the PBGC's variable rate premium (but without reference to the exemptions or special rules provided in the PBGC's premium regulation (29 CFR 2610.24)).

Information Years

The regulation introduces the concept of an Information Year for a person (§ 2628.6). The Information Year serves four purposes. First, it will help persons determine which plan years and fiscal years to use to identify Filers. Second, it will help Filers determine whether a pension plan qualifies for a filing exemption. Third, it is used to identify the information to be submitted by a Filer. Fourth, it establishes the due date for submission of required information by a Filer.

The regulation does not require a Filer to change its fiscal year or the plan year of any pension plan. Further, the regulation does not require a Filer to report financial information on any accounting period other than an existing fiscal year or to report actuarial information for any period other than the existing plan year of a pension plan.

Generally, the Information Year is the fiscal year of the Filer. If all members of a controlled group do not report financial information on the same fiscal year, the Information Year is the calendar year.

Required Submissions

Section 4010(a) of ERISA requires each Filer annually to provide to the PBGC audited financial statements and other financial and actuarial information required by regulation. Section 2628.3(b) of the regulation allows information to be submitted by a representative of a Filer so that, for example, a Filer can submit required information to the PBGC on behalf of itself and all other members of its controlled group and satisfy their obligations under the regulation.

Exemptions

A Filer is not required to submit actuarial information for a pension plan (''Exempt Plan'') if, at the end of the plan year ending within the Filer's Information Year, the plan has no unfunded benefit liabilities or has fewer than 500 participants. The amount of ''unfunded benefit liabilities'' is determined as of the end of that plan year by subtracting the market value of plan assets, without regard to any contributions receivable, from the value of the plan's benefit liabilities. The regulation requires that the ''value of benefit liabilities'' be calculated as of the end of that plan year using (1) the PBGC's termination assumptions in effect at the end of that plan year and (2) plan census data as of the end of that plan year or the beginning of the next plan year. If that census data is not available, the value of benefit liabilities may be based on a projection of census data from a date within the plan year. This projection must be consistent with projections used to measure pension obligations for financial statement purposes and produce a result appropriate to the measurement date for these obligations. Adjustments to this projection process may be required where there have been significant events (such as plan amendments or curtailments) which were not reflected in the projection assumptions. Plans that have minimum funding waivers outstanding at the end of the plan year ending within the Filer's Information Year or that have any missed minimum funding payments in any amount that were required to be made during the Information Year are not Exempt Plans.

Section 2628.4(b) requires that all single-employer plans covered by Title IV of ERISA in a controlled group, including Exempt Plans, be taken into account in determining whether a person is a Filer. For example, a contributing sponsor has two plans—Plan A with unfunded vested benefits of $45 million and more than 500 participants, and Plan B with unfunded vested benefits of $6 million and fewer than 500 participants. Because the aggregate unfunded vested benefits of the two plans will exceed $50 million, the contributing sponsor and each of its controlled group members are Filers. (Because Plan B has fewer than 500 participants, no actuarial information for the plan need be submitted.)

The PBGC also may waive some or all of the filing requirements for Filers in appropriate cases where the PBGC finds convincing evidence for such a waiver (§ 2628.5(b)). Waivers may be conditioned on the submission of

substitute information or the execution of an agreement protective of plan participants and the PBGC. A Filer that seeks a waiver must file its request in writing no less than fifteen days before the applicable due date for required information.

The PBGC invites members of the public to express their views concerning other factors or criteria that could warrant additional exemptions for individual Filers, for classes of Filers, or for plans.

Information To Be Submitted

Section 2628.7 describes the information that Filers must submit to the PBGC. Although each Filer is subject to the obligation to submit information on each controlled group member and plan (to the extent no exemptions apply), the regulation allows for a single consolidated filing for the controlled group.

Identifying Information

Section 2628.7(b) specifies identifying information for each Filer (the Filer's name, address, telephone number, and the Employer Identification Number (EIN), if any, assigned by the IRS) and for each pension plan (the name of the plan, EIN, and the Plan Number assigned by the plan's contributing sponsor). Also, each Filer (or one Filer for the entire controlled group) must identify all members of the controlled group and the legal relationship of each entity to the others (parent, wholly-owned subsidiary, etc.).

Actuarial Information

Section 2628.7(c) specifies the actuarial information that a Filer must provide as follows: (1) The market value of plan assets (without regard to any contributions receivable) at the end of the plan year ending within the Filer's Information Year, (2) the value of benefit liabilities as of the same date, (3) certain participant data, and (4) the actuarial valuation report (''AVR'') for that plan year, which must contain or be supplemented by certain required actuarial information. Generally, this actuarial information is developed and maintained by the plan's enrolled actuary for purposes of, among other things, completing Schedule B of the plan's Form 5500. A plan's enrolled actuary must certify that all actuarial information submitted is accurate and complete.

If the AVR or any of the supplementary actuarial information is not available by the due date, § 2628.7(d) allows a Filer to submit the unavailable information by an alternative date—15 days after the deadline for filing the plan's Form 5500 for the plan year ending within the Filer's Information Year (see 29 CFR 2520.104a–5(a)(2)).

Financial Information

Section 4010(a)(2) of ERISA requires each Filer to provide to the PBGC copies of audited financial statements (or, if not available, unaudited statements). Financial statements include balance sheets, income statements and cash flow statements. Under § 2628.7(e)(1)(iii), if audited or unaudited financial statements are not prepared, the Filer may satisfy the financial information requirement by submitting copies of federal tax returns for the tax year ending within its Information Year.

For most controlled group members whose financial information is combined with that of other group members, the submission of the consolidated financial statement for the group will satisfy the obligation to submit individual financial statements (§ 2628.7(e)(2)(i)). Limited financial information—a group member's revenues and operating income for the Information Year, and its assets as of the end of the Information Year—is required for each contributing sponsor of a non-Exempt Plan included in such a consolidated financial statement (§ 2628.7(e)(2)(ii)).

If the required financial information of a controlled group member has been filed with the Securities and Exchange Commission, or has otherwise been made publicly available, the Filer need not submit it to PBGC. Section 2628.7(e)(3) requires only that the Filer include a statement in its submission to the PBGC indicating when the information was made available to the public and where the PBGC may obtain it.

The PBGC may request additional information from any Filer to determine plan assets and liabilities and a Filer's financial status (§ 2628.7(f)). For example, after a controlled group's parent submits consolidated financial statements in accordance with § 2628.7(e)(2)(i), it proposes to sell one of its subsidiaries. In that instance, the PBGC would normally request financial information relating to the subsidiary that was to be sold. Nothing in this proposed regulation limits the PBGC's authority under section 4003 of ERISA to seek any information from a Filer by any means provided thereunder.

Previously Provided Information

Any information previously submitted to the PBGC need not be resubmitted. Section 2628.7(g) allows the Filer to incorporate the previous submission by reference. For example, some of the required actuarial information with respect to a Filer's plans may have already been submitted to the PBGC in a reportable event filing; the Filer can make a reference to the reportable event filing in its submission.

When To File

Under § 2628.8(a), a Filer must submit the required information to the PBGC on or before the one hundred and fifth day after the end of the Filer's Information Year. (This due date is designed to be fifteen days after the Securities and Exchange Commission's annual reporting date for public companies.) If a plan's AVR or any of the related supplementary actuarial information is not available by this due date, the Filer may submit the unavailable information by the alternative due date—15 days after the deadline for filing the plan's Form 5500 for the plan year ending within the Filer's Information Year (§ 2628.8(b)).

Filers may submit required information by mail, by overnight and express delivery services, by hand, or by other means that are acceptable to the PBGC. The PBGC invites Filers to offer suggestions regarding procedures to electronically transmit some or all of the required information.

Confidentiality

Generally, required information submitted to the PBGC by a Filer in accordance with this regulation will not be made available or disclosed to the public. This restriction on disclosure shall not apply to publicly available information. For example, if a Filer submits required information to the PBGC, part of which is also publicly available, only that information that is not publicly available will be subject to confidentiality. Further, as provided in section 4010(c) of ERISA, these confidentiality strictures shall not apply to information disclosed by the PBGC in administrative or judicial proceedings or to Congress.

Penalties for Non-Compliance

Failure to provide information to the PBGC in accordance with the requirements of this part would constitute a violation of Title IV of ERISA. Section 4071 authorizes the PBGC to assess a penalty against any person who fails, within the specified time limits, to provide material information to the PBGC. All required information under this regulation is deemed material by the PBGC. The PBGC may assess a penalty on a pension plan's contributing sponsor and on each member of its controlled group of up to

$1,000 for each day for which a failure to submit required information continues. The PBGC has the right to pursue other equitable or legal remedies available to it under the law.

Effective Date

The regulation applies for Information Years ending on or after December 31, 1995.

Paperwork Reduction Act

The PBGC has submitted the collection of information requirements in this proposed regulation to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. chapter 35). The PBGC needs this information, and will use it, to identify controlled groups with severely underfunded plans, to determine the financial status of controlled group members and evaluate the potential risk of future losses resulting from corporate transactions and the need to take legal action, and to negotiate agreements under which controlled groups would provide additional plan funding. The PBGC estimates the public reporting burden for this collection of information to average 215.3 hours for each of approximately 100 controlled groups.

Comments concerning this collection of information should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: PBGC Desk Officer.

E.O. 12866 and Regulatory Flexibility Act

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866. The provisions of this proposed regulation would implement policy decisions made by Congress in requiring Filers to provide audited financial statements and other required information annually to the PBGC. Those provisions reflect the PBGC's interpretation of the statutory standards and prescribe the form, time, and manner in which the required information should be submitted.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that, if adopted, this proposed regulation would not have a significant economic impact on a substantial number of small entities. The tests for identifying Filers under section 4010(b) of ERISA limit the filing requirements to large companies and their controlled groups. With respect to many of those groups, the PBGC will obtain audited financial statements from public sources (such as the Securities and Exchange Commission), rather than require each of the companies to file the information with the PBGC. Further, the proposed regulation will exempt plans with fewer than 500 participants from the actuarial information requirements. The regulation would not require individual financial information with respect to many of the companies within controlled groups. In addition, the PBGC intends to develop the means to allow Filers to submit required information electronically. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), sections 603 and 604 do not apply.

List of Subjects in 29 CFR Part 2628

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC proposes to amend subchapter C, chapter XXVI of 29 CFR by adding a new part 2628 to read as follows:

PART 2628—ANNUAL FINANCIAL AND ACTUARIAL INFORMATION REPORTING

Authority: 29 U.S.C. 1302(b)(3); 29 U.S.C. 1310

§ 2628.1 Purpose and scope.

(a) *Purpose.* This part prescribes the procedures and the information that Filers (as described in § 2628.4(a) of this part) must submit annually to the PBGC under section 4010 of the Act.

(b) *Scope.* This part applies to Filers for any Information Year ending on or after December 31, 1995.

§ 2628.2 Definitions.

For purposes of this part—

Act means the Employee Retirement Income Security Act of 1974, as amended.

Code means the Internal Revenue Code of 1986, as amended.

Contributing sponsor means a person who is a contributing sponsor as defined in section 4001(a)(13) of the Act.

Controlled group means, in connection with any person, a group consisting of that person and all other persons under common control with such person, determined under part 2612 of this chapter.

Information Year means the year determined under § 2628.6 of this part.

Exempt Plan means a plan as described in § 2628.5(a) of this part.

Filer means a person who is a Filer as described in § 2628.4 of this part.

Fiscal year means, with respect to a person, the annual accounting period or, if the person has not adopted a closing date, a calendar year (*i.e.*, the year ending on December 31).

Person means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization representing any group of participants for purposes of collective bargaining.

Plan means a single-employer plan (as defined in section 4001(a)(15) of the Act) that is covered by section 4021(a) and not excluded under section 4021(b) of the Act.

Plan year means the calendar, policy, or fiscal year on which the records of a Plan are kept.

Unfunded vested benefits means the amount determined under section 4006(a)(3)(E)(iii) of the Act and § 2610.23 of this chapter (without reference to § 2610.24 of this chapter).

Value of benefit liabilities means the value of a Plan's benefit liabilities (as defined in section 4001(a)(16) of the Act), as of the end of the plan year ending within the Filer's Information Year, using:

(1) The PBGC's valuation assumptions for trusteed plans terminating as of the end of that plan year, as prescribed in 29 CFR part 2619, subpart C, and

(2) Plan census data as of the end of that plan year or the beginning of the next plan year.

If such census data are not available, a projection of plan census data from a date within the plan year must be used. The projection must be consistent with projections used to measure pension obligations of the Plan for financial statement purposes and must give a result appropriate to the measurement date for these obligations. Thus, for example, adjustments to the projection process may be required where there has been a significant event (e.g., a plan amendment or a curtailment) which has not been reflected in the projection assumptions.

§ 2628.3 Required submission of information.

(a) *General requirement.* Except as provided in § 2628.5, each person who is a Filer as described in § 2628.4(a) shall submit to the PBGC annually on or

before the date specified in § 2628.8(a) all information specified in § 2628.7 of this part.

(b) *Submission by representative.* One or more Filers or other persons may act as a representative and submit the information specified in § 2628.7 on behalf of some or all Filers within a controlled group. Representatives, other than Filers, must also submit a written power of attorney signed by the Filer authorizing the representative to act on the Filer's behalf in connection with the required information.

§ 2628.4 Filers.

(a) *General.* A Filer is a contributing sponsor of a Plan and each member of the contributing sponsor's controlled group if, for an Information Year,

(1) The aggregate unfunded vested benefits of all Plans maintained by the contributing sponsor and other members of the contributing sponsor's controlled group exceed $50 million (disregarding those Plans with no unfunded vested benefits) at the end of the plan year or years ending within the Filer's Information Year;

(2) The conditions for imposition of a lien described in section 302(f)(1) (A) and (B) of the Act or section 412(n)(1) (A) and (B) of the Code have been met during the plan year ending within the Filer's Information Year with respect to any Plan maintained by the contributing sponsor or any member of its controlled group; or

(3) The Internal Revenue Service has granted a waiver or waivers of the minimum funding standards, as defined in section 303 of the Act and section 412(d) of the Code, in excess of $1 million with respect to any Plan maintained by the contributing sponsor or any member of its controlled group, and any portion thereof is still outstanding at the end of the plan year ending within the Filer's Information Year.

(b) All Plans, including any Exempt Plan as described in § 2628.5(a), maintained by members of a controlled group must be taken into account in determining the persons who are Filers under this section.

§ 2628.5 Exemptions.

(a) *Exempt Plan.* The actuarial information specified in § 2628.7(c) of this part is not required for a Plan (an ''Exempt Plan'') that—

(1) Has no minimum funding waivers outstanding at the end of the plan year ending within the Filer's Information Year,

(2) Has received all payments required to be made during the Information Year under section 302 of the Act and Section 412 of the Code, and

(3) Satisfies at least one of the following conditions—

(i) The Plan has no unfunded benefit liabilities, determined using the market value of assets in the Plan (without regard to any contributions receivable) at the end of the plan year ending within the Filer's Information Year and the value of benefit liabilities; or

(ii) The Plan has fewer than 500 participants as of the end of the plan year ending within the Filer's Information Year.

(b) *Waiver of information requirements.* The PBGC may waive the requirement to submit required information with respect to a Filer, a Plan, or groups thereof. The PBGC will exercise this discretion in appropriate cases where it finds convincing evidence for such a waiver, and any such waiver may be subject to conditions. A request for a waiver must be filed in writing with the PBGC at the address provided in § 2628.8(d) no later than fifteen days prior to the applicable date specified in § 2628.8 of this part, and must state the facts and circumstances on which the request is based.

§ 2628.6 Information Year.

(a) *Determinations based on Information Year.* An Information Year is used under this part to determine which fiscal year and plan year should be used to determine whether members of a controlled group are Filers (§ 2628.4) and whether a Plan is an Exempt Plan (§ 2628.5(a)), and to identify the information that a Filer must submit (§ 2628.7) and the due date for submitting that information (§ 2628.8(a)). A Filer is not required to change its fiscal year or the plan year of a Plan, to report financial information on any accounting period other than an existing fiscal year, or to report actuarial information for any plan year other than the existing plan year of a Plan.

(b) *General.* Except as provided in paragraph (c) of this section, the Information Year shall be the fiscal year of the Filer or the consolidated fiscal year of the Filer's controlled group.

(c) *Controlled groups with different fiscal years.* If members of a controlled group report financial information for different fiscal years, the Information Year shall be the calendar year. Example: Filers A and B are members of the same controlled group. Filer A has a July 1 fiscal year, and Filer B has an October 1 fiscal year. The Information Year is the calendar year. Filer A's financial information with respect to its fiscal year beginning July 1, 1995, and Filer B's financial information with respect to its fiscal year beginning October 1, 1995, must be submitted to the PBGC following the end of the 1996 calendar year (the calendar year in which those fiscal years end).

§ 2628.7 Required information.

(a) *General.* Except as otherwise provided in § 2628.5 of this part, the information to be submitted by a Filer is that specified in paragraphs (b), (c), and (e) of this section with respect to each member of the Filer's controlled group and each Plan maintained by any member of the controlled group.

(b) *Identifying information.* (1) The name, address, and telephone number of the Filer.

(2) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the Filer (if there is no EIN, explain).

(3) If the Filer is a contributing sponsor of a Plan or Plans—

(i) The name of each Plan.

(ii) The EIN and the three-digit Plan Number (PN) assigned by the contributing sponsor to each Plan, but—

(A) If the EIN–PN has changed since the beginning of the Information Year, the previous EIN–PN and an explanation; or

(B) If there is no EIN–PN for the Plan, an explanation.

(4) The name and address of each other member of the Filer's controlled group and the legal relationships of each (for example, parent, subsidiary).

(c) *Plan actuarial information.* (1) The market value of Plan assets (determined without regard to any contributions receivable) at the end of the plan year ending within the Filer's Information Year.

(2) The value of benefit liabilities.

(3) Schedules or listings with the following information as of the first day of the plan year ending within the Filer's Information Year:

(i) The distribution of active participants by 5-year age and service groupings and, if benefits are based (in whole or in part) on compensation, each grouping's average compensation;

(ii) The distribution of retirees by 5-year age groupings with each grouping's average benefit amounts; and

(iii) The distribution of deferred vested participants by 5-year age groupings with each grouping's average benefit amount to be paid at normal retirement age.

(4) A copy of the actuarial valuation report for the plan year ending within the Filer's Information Year that contains or is supplemented by the following information:

(i) Each amortization base and related amortization charge or credit to the

funding standard account (as defined in section 302(b) of the Act and section 412(b) of the Code) for that plan year (excluding the amount considered contributed to the Plan as described in section 302(b)(3)(A) of the Act and section 412(b)(3)(A) of the Code);

(ii) The itemized development of the additional funding charge payable for that plan year pursuant to section 412(l) of the Code;

(iii) The minimum funding contribution and the maximum deductible contribution for that plan year;

(iv) The actuarial assumptions and actuarial methods used for that plan year for purposes of section 302(b) and (d) of the Act and section 412(b) and (l) of the Code (and any change in those assumptions and methods since the previous valuation and justifications for any change); and

(v) A summary of the principal eligibility and benefit provisions on which the valuation of the Plan was based (and any change(s) to those provisions since the previous valuation), along with descriptions of any benefits not included in the valuation, any significant events that occurred during that plan year, and the Plan's early retirement factors.

(5) A written certification by the Plan's enrolled actuary that, to the best of his or her knowledge and belief, the actuarial information submitted is true, correct, and complete and conforms to all applicable laws and regulations.

(d) *Alternative compliance for plan actuarial information.* If any of the information specified in paragraph (c)(4) of this section is not available by the date specified in § 2628.8(a) of this part, a Filer may satisfy the requirement to provide such information by—

(1) Including a statement, with the material that is submitted to the PBGC, that the Filer will file the unavailable information by the alternative due date specified in § 2628.8(b), and

(2) Filing such information and a certification by the Plan's enrolled actuary as described in paragraph (c)(5) of this section with the PBGC by that alternative due date.

(e) *Financial information.* (1) Except as provided in paragraph (e)(2) of this section, required financial information for each controlled group member consists of—

(i) Audited financial statements for the fiscal year ending within the Information Year (including balance sheets, income statements, cash flow statements, and notes to the financial statements); or

(ii) If no audited financial statements are prepared, unaudited financial statements for the fiscal year ending within the Information Year; or

(iii) If neither audited nor unaudited financial statements are prepared, copies of federal tax returns for the tax year ending within the Information Year.

(2) If the financial information of a controlled group member is combined with the information of other group members in a consolidated financial statement, required financial information consists of—

(i) The consolidated, audited (or, if unavailable, unaudited) financial statement for the Information Year; and

(ii) For each controlled group member included in such consolidated financial statement that is a contributing sponsor of a Plan that is not an Exempt Plan, the contributing sponsor's revenues and operating income for the Information Year, and assets as of the end of the Information Year.

(3) If any of the financial information required by paragraphs (e)(1) or (e)(2) of this section is publicly available (for example, the controlled group member has filed audited financial statements with the Securities and Exchange Commission), the Filer, in lieu of submitting such information to the PBGC, may include a statement with the other information that is submitted to the PBGC indicating when such financial information was made available to the public and where the PBGC may obtain it.

(f) *Additional information.* The PBGC may, by written notification, require any Filer to submit additional actuarial or financial information that is necessary to determine Plan assets and liabilities or the financial status of a Filer. Such information must be submitted within 10 days after the date of the written notification or by a different time specified therein.

(g) *Previous submissions.* If any required information has been previously submitted to the PBGC, a Filer may incorporate such information into the required submission by referring to the previous submission.

(h) *Penalties for non-compliance.* If all of the information required under this section is not provided within the specified time limit, the PBGC may assess a separate penalty under section 4071 of the Act against the Filer and each member of the Filer's controlled group of up to $1,000 a day for each day that the failure continues. The PBGC may also pursue other equitable or legal remedies available to it under the law.

§ 2628.8 Due date and filing with the PBGC.

(a) *Due date.* Except as permitted under paragraph (b) of this section, a Filer shall file the information required under this part with the PBGC on or before the 105th day after the close of the Filer's Information Year.

(b) *Alternative due date.* A Filer that includes the statement specified in § 2628.7(d)(1) with its submission to the PBGC by the date specified in paragraph (a) of this section must submit the actuarial information specified in § 2628.7(d)(2) within 15 days after the deadline for filing the Plan's annual report for the plan year ending within the Filer's Information Year (see § 2520.104a–5(a)(2) of this title).

(c) *Extensions.* When the President of the United States declares that, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the PBGC may extend the due dates provided under paragraphs (a) and (b) of this section by up to 180 days.

(d) *How to file.* Requests and information may be delivered by mail, by overnight and express delivery services, by hand, or by any other method acceptable to the PBGC, to: Corporate Finance and Negotiations Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

§ 2628.9 Date of filing.

(a) Information filed under this part is considered filed on the date of the United States postmark stamped on the cover in which the information is mailed, if—

(1) The postmark was made by the United States Postal Service; and

(2) The document was mailed postage prepaid, properly addressed to the PBGC.

(b) If the Filer sends or transmits the information to the PBGC by means other than the United States Postal Service, the information is considered filed on the date it is received by the PBGC. Information received on a weekend or Federal holiday or after 5 p.m. on a weekday is considered filed on the next regular business day.

(c) In computing any period of time under this part, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a weekend or Federal holiday, in which event the period runs until the end of the next day that is not a weekend or Federal holiday.

§ 2628.10 Confidentiality of information submitted.

In accordance with § 2603.15(b) of this chapter and section 4010(c) of the Act, any information or documentary material that is not publicly available and is submitted to the PBGC pursuant to this part shall not be made public, except as may be relevant to any administrative or judicial action or proceeding or for disclosures to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

Issued in Washington, DC this 30th day of June, 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–16510 Filed 7–5–95; 8:45 am]

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Federal Register

Thursday
July 6, 1995

Part VIII

Department of the Interior

Bureau of Indian Affairs

Mission Valley Power Utility, Montana; Power Rate Adjustment; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Mission Valley Power Utility, Montana; Power Rate Adjustment

ACTION: Notice of proposed rate change.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to increase the cost of electric power to customers of Mission Valley Power (MVP), the entity operating the power facility of the Flathead Irrigation and Power Project of the Flathead Reservation. The BIA has been informed by the Bonneville Power Administration (BPA) that it is increasing its wholesale power and transmission rates by 4.0 percent through an interim surcharge. At the present time, the BPA supplies the majority of MVP's wholesale power requirements through a contract, which will expire in the year 2001.

Accordingly, the BIA is proposing to adjust MVP rates and charges to reflect the increased cost of service and power provided to MVP by the BPA. The proposed rate change will impact MVP's Basic Charge, Demand Charge, Horsepower Charge and various energy rates within each rate class.

The effective date of the proposed BPA rate change is October 1, 1995, through September 30, 1996. MVP proposes to adjust its rates and charges effective October 1, 1995, through September 30, 1996, accordingly.

DATES: Comments must be submitted on or before August 7, 1995.

ADDRESSES: Written comments on rate changes should be sent to: Assistant Secretary—Indian Affairs, Attn: Branch of Irrigation and Power, MS#4559–MIB, Code 210, 1849 ''C'' Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, telephone (503) 231–6702; or, General Manager, Mission Valley Power, P.O. Box 890, Polson, Montana 59860–0890. Telephone (406) 883–5361 or 1–800–823–3758 (in-State Watts). For further specific information on the surcharge to be imposed by the Bonneville Power Administration please contact the Bonneville Power Administration, Corporate Communications, P.O. Box 12999, Portland, Oregon, or call them at (503) 230–4201.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 7, 1946, c. 802, Section 3 (60 Stat. 895; 25 U.S.C. 385c); the Act of May 25, 1948 (62 Stat. 269); and the Act of December 23, 1981, section 112 (95 Stat. 1404). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8. 1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

The following table illustrates the impact of the surcharge.

BPA WHOLESALE POWER RATE REVISION FROM BPA TO MVP

Rate class	Present rate	Retail rate Oct. 1, 1995
Residential:		
Basic charge:	$11.00/mo. (includes 127 kwh)	$11.00 (includes 125 kwh).
Energy charge:	$ 0.04724/KWH (over 109 kwh)	$ 0.04817/kwh (over 125 kwh).
#2 General:		
Basic charge:	$11.00/mo. (includes 109 kwh)	$11.00/mo. (includes 107 kwh).
Energy charge:	$ 0.05511/KWH (over 109 kwh)	$ 0.05604/KWH (over 107 kwh).
Irrigation:		
Horsepower charge:	$10.84/HP	$11.25/HP.
Energy charge:	$0.03605/kwh	$0.03638/kwh.
Minimum seasonal charge:	$132.00 or $6.00/HP, whichever is greater	Same.
Small and large commercial:		
Basic charge:	None	None.
Monthly minimum:	$38.00	$38.00.
Demand rate:	$4.34/KW of billing demand	$4.50/KW of billing demand.
Energy charge:	$0.04269/kwh—First 18,000 kwh; $0.03551/kwh—over 18,000 kwh.	$0.04305/kwh—first 18,000 kwh; $0.03588/kwh—over 18,000 kwh.

	Monthly rate	Monthly rate
Area lights installed on existing pole or structure:		
7,000 lumen unit, M.V.*	$6.98	$7.00
20,000 lumen unit, M.V.*	9.73	10.00
9,000 lumen unit, H.P.S.	6.30	6.50
22,000 lumen unit, H.P.S.	8.58	8.75
Area lights installed with new pole:		
7,000 lumen unit, M.V.*	$8.70	$8.75
20,000 lumen unit, M.V.*	11.43	11.50
9,000 lumen unit, H.P.S.	8.01	8.25
22,000 lumen unit, H.P.S.	10.28	10.50
Street lighting (metered):		
Basic charge:	$11.00/mo. (for 109 kwh)	$11.00/mo.(for 107 kwh).
Energy charge:	0.05511 (over 109 kwh)	0.05604 (over 107 kwh).
Street lighting (unmetered):		
This rate class applies to municipalities or communities where there are ten or more lighting units billed in a group. This rate schedule is subject to a negotiated contract with MVP.		

*Continuing service only.

Dated: June 20, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–16653 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Thursday
July 6, 1995

Part IX

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of approved Tribal-State Compact

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal-State Compact Between the Prairie Band of Potawatomi Indians of Kansas and the State of Kansas, which was executed on May 4, 1995.

DATES: This action is effective July 6, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine Director Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240 (202) 219–4068

Dated: June 26, 1995.

Ada E. Deer

Assistant Secretary-Indian Affairs

[FR Doc. 95–16598 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal-State Compact Among the Iowa Tribe of Kansas and Nebraska and the State of Kansas, which was executed on May 4, 1995.

DATES: This action is effective July 6, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: June 23, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–16599 Filed 7–5–95; 8:45 am]

BILLING CODE 4310–02–P

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