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Thursday
July 13, 1995

Briefings on How To Use the Federal Register
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WASHINGTON, DC

WHEN: July 27 at 9:00 am

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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–95–12]

Tobacco Inspection; Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations revise the Official Standard Grades for Flue-Cured Tobacco to more accurately describe tobacco as it presently appears at the marketplace. The revision will add a special factor to identify lots of tobacco that contain 25 percent or more of an adjacent stalk position.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: Notice was given (60 FR 27912; Friday, May 26, 1995) that the Department proposed to revise the Official Standard Grades for Flue-Cured Tobacco, U.S. Types 11–14 and Foreign Type 92 to add a special factor (subgrade) to describe mixing of adjacent stalk positions. This proposal was based on recommendations by the Flue-Cured Tobacco Cooperative Stabilization Corporation and an Advisory Committee appointed by Congress to study the government tobacco program.

The revision would add a special factor (subgrade) to describe mixing of adjacent stalk positions. Stalk positions or groups as defined in the current standards are a division of a type covering closely related grades based on certain characteristics such as shape, body, or the general quality of tobacco. The traditional practice of sorting tobacco in the flue-cured marketing area has changed dramatically during the past decade. Producers are combining adjacent stalk positions which makes grading more difficult and has made U.S. tobacco less desirable for certain customers in the world market. This new special factor would identify any lot of tobacco which contains 25 percent of an adjacent stalk position.

Interested parties were given an opportunity to comment on the proposed rule. A total of five comments were received; two comments—one from an individual and one from an auction warehouse recommending the ''M'' special factor only apply to the ''B'' and ''H'' groups, and three comments—two from producer associations and one from a tobacco company that supported the proposal. In considering the two comments recommending that the ''M'' special factor apply only to the B and H groups, the Department notes that the initial requests of the industry organizations for this amendment made no distinction between specific groups but referred only to adjacent stalk positions. Furthermore, in order to be consistent in the application of grade standards this special factor should be applied to all groups. Therefore, after consideration of comments on the proposal and other relevant information, the Department hereby adopts the regulations as proposed.

This final rule has been determined not significant for the purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of ''small business'' which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000.

The Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities. This final rule would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this rule would not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and would not alter the market share or competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace.

In addition, good cause has been found to make this rule effective less than 30 days after publication because it is necessary that the regulation be effective at the beginning of the marketing season which begins in mid-July. Therefore, in order to treat all marketing areas on an equal basis, this final rule is made effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

Subpart C—Standards

1. The authority citation for part 29, subpart C is revised to read as follows:

Authority: 7 U.S.C. 511b, 511m, and 511r.

2. Section 29.1059 is revised to read as follows:

§ 29.1059 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but which has a peculiar side or characteristic which tends to modify the grade. (See Rules 10, 21, 22, 26, 28, and 29.)

3. A new § 29.1135 is added to read as follows:

§ 29.1135 Rule 29.

Any lot of tobacco containing 25 percent or more of an adjacent group, which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor ''M'' preceding the grademark.

4. In § 29.1181, the first sentence in the paragraph immediately following table ''13 Grades on Nondescript'', is revised to read as follows:

§ 29.1181 Summary of standard grades.

* * * * *

Special factors ''U'' (unsound), ''W'' (doubtful-keeping order), ''S'' (strip), and ''M'' (mixed) may be applied to all grades. * * *

Dated: July 6, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–17197 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–02–P

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580–AA27

Fees for Beltsville Commodity Testing Laboratory Services

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

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS), a program of the Grain Inspection, Packers and Stockyards Administration (GIPSA), is increasing service fees charged by the FGIS Commodity Testing Laboratory at Beltsville, Maryland, under authority of the Agricultural Marketing Act (AMA) of 1946. FGIS is also establishing a test and unit fee for vomitoxin testing at the Laboratory

These revisions are necessary to cover, as nearly as practicable, the projected operating costs, including related supervisory and administrative costs, for commodity laboratory testing services.

EFFECTIVE DATE: September 11, 1995.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA–GIPSA, Room 0623–South Building, 1400 Independence Avenue, SW, Washington, DC 20090–6454, telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This increase in the service fees is necessary to recover operating losses at the Beltsville Commodity Testing Laboratory. These fees were increased on August 1, 1984, (49 FR 26547) and due to increases in the operating costs, it is not being covered by revenue. The overall cost of operating the laboratory increased between FY 92 and 93 by more than 8 percent. This cost increase occurred simultaneously with a more than 17 percent downturn in revenue due to fewer service requests. Revenue of $1,035,411 did not cover the operating cost of $1,190,700 for FY 93, resulting in a 1-year operating loss of $155,289. Given FY 93 volume, the fee increase will generate revenue of $1,394,577 or an increase of $359,166.

James R. Baker, Administrator, GIPSA, has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This final rule will not pre-empt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this rule.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the previously approved information collection and recordkeeping requirements concerning applications for inspection services, including official commodity laboratory testing services, have been approve by the Office of Management and Budget under control number 0580–0013.

Background

On November 3, 1994, FGIS proposed in the **Federal Register** (59 FR 55067) to increase fees charged for Beltsville Commodity Testing Laboratory Services and establish a test and unit fee for vomitoxin testing at the Laboratory.

The fees for commodity laboratory testing services were last increased August 1, 1984, (49 FR 26547). Subsequent adjustments were made on April 17, 1991, (56 FR 15483), adding several new laboratory test services and consolidating others for clarity and efficiency. Currently, these fees appear in section 868.90, Table 4 of the regulations (7 CFR 868.90, Table 4).

FGIS is adding a vomitoxin laboratory testing service to the current list of fees, 7 CFR 868.90, Table 4. The new test is required to accommodate frequent grain and food industry requests. In addition, changes are made to Table 4 concerning the Tilletia controversa kuhn (TCK) laboratory test services. Currently, section 868.90, Table 4 provides for a Tilletia controversa kuhn (TCK) test for $25.20. While the proposed rule effected this test and fee in Table 4, it did not separate the TCK testing service to specify quantitative and qualitative testing. This final rule changes Table 4 to specify both a qualitative and quantitative TCK testing service. The qualitative test remains at $25.20 while the quantitative test fee will be $76.00. This will recover, as nearly as practicable, projected operating costs.

FGIS continually strives to contain operating costs through program efficiencies and streamlining. In fiscal year 1992, FGIS took specific action to reduce chemical disposal costs by implementing new technology. FGIS further enhanced laboratory procedures to improve overall efficiency. While these changes proved successful in reducing certain costs, the overall cost of operating the laboratory increased between FY 92 and 93 by more than 8 precentum. This cost increase occurred simultaneously with a more than 17 percentum downturn in revenue due to fewer service requests. Revenue of $1,035,441 did not cover the operating cost of $1,190,700 for fiscal year 1993, resulting in a 1-year operating loss of $155,289.

Given fiscal year 1993 volume, the proposed fee increase will generate revenue of $1,394,577 or an increase of $359,166.

Comment Review

FGIS received one comment during the 30-day comment period. That comment was from a grain processing trade association. It recognized the need for a fee increase after 10 years without an increase and applauded initiatives taken to contain operating costs through program efficiencies and streamlining. It further suggested that the Beltsville Commodity Testing Laboratory be consolidated with and moved to the FGIS Technical Center (QARD) in

Kansas City, Missouri, in order to reduce ongoing operating expenses while enhancing the efficiency and timeliness of testing service.

It also requested further information regarding cost and revenue figures, including both historical and projected, before commenting on the reasonableness of the specific proposals. However, FGIS published in the proposed rule all cost and revenue information necessary for the purpose of increasing fees.

With regard to the suggestion that the Beltsville Commodity Testing Laboratory be consolidated with and moved to QARD was not germane to the proposed rule but will be considered if appropriate.

Based on all available information including the comment received, FGIS is increasing the fees charged at the Beltsville Commodity Testing Laboratory and making additional changes to Table 4 a provided in this action.

Final Action

Section 203(h) of the AMA (7 U.S.C. 1622(h)) provides for the establishment and collection of fees that are reasonable, and as nearly as practicable, to cover the costs of the services rendered. These fees cover the FGIS administrative and supervisory costs for the performance of official services. FGIS costs include personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

Section 868.90, Table 4 (as currently shown in section 868.90, Table 4 of the regulations) is revised to provide for the increase in laboratory commodity testing fees and the addition of the vomitoxin laboratory testing and changes to the Tilletia controversa kuhn (TCK) testing as outlined in the background. Pesticide residue testing (Carbon Tetrachloride, Methyl Bromide and Ethylene Dibromide) is deleted because it is no longer conducted at the Beltsville Commodity Testing Laboratory. Such testing is provided for under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*)

The increased fees for laboratory tests are: Aflatoxin test (other than TLC or Minicolumn), Aflatoxin (TLC), Aflatoxin (Minicolumn), Appearance and Odor, Ash, Bacteria count, Baking test (cookies), Bostwick (uncooked/cook test/dispersibility), Brix, Calcium, Carotenoid Color, Cold test (oil), Cooking test (other than corn soy blend), Crude fat, Crude fiber, Dough handling (baking), E. coli, Falling number, Fat (acid hydrolysis), Fat-stability (A.O.M.), Flash point (point and closed up), Free fatty acid, Hydrogen ion activity (pH), Iron enrichment, Linolenic acid (fatty acid profile), Lovibond color, Moisture, Moisture and volatile matter, Performance test (prepared bakery mix), Peroxide value, Phosphorus, Popcorn kernels (total defects), Popping ratio/value popcorn, Potassium bromate, Protein, Salmonella, Salt or sodium content, Sanitation (light filth), Sieve test, Smoke point, Solid fat index, Unsaponifiable matter, Urease activity, Visual exam (hops pellet), Visual exam (insoluble impurities, oils, and shortening), Visual exam (pasta), Visual exam (processed grain products), Vitamin enrichment, and Water activity.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agriculture commodities.

For the reasons set out in the preamble, 7 CFR Part 868 is amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et. seq.*)

2. Section 868.90 is amended by revising paragraphs (a), (b) and (c) and Table 4 and the undesignated centerhead above paragraph (a) to read as follows:

§ 868.90 Fees for certain Federal inspection services.

* * * * *

Table 3 * * *

Fees for Official Laboratory Test Services Performed at the GIPSA Commodity Testing Laboratory at Beltsville, Maryland

For Processed Agricultural Products

(a) In addition to the fees, if any, for sampling or other requested service, a fee will be assessed for each laboratory test (original, retest, or appeal) as follows:

TABLE 4.—LABORATORY FEES [1]

Laboratory tests	Fees
(1) Alpha monoglycerides	$18.00
(2) Aflatoxin test (other than TLC or Minicolumn method)	22.50
(3) Aflatoxin (TLC)	48.00
(4) Aflatoxin (Minicolumn method)	25.00
(5) Appearance & odor	3.00
(6) Ash	8.50
(7) Bacteria count	10.00
(8) Baking test (cookies)	28.00
(9) Bostwick (cooked)	12.60

TABLE 4.—LABORATORY FEES [1]—Continued

Laboratory tests	Fees
(10) Bostwick (uncooked/cook test/dispersibility)	6.50
(11) Brix	8.00
(12) Calcium	12.50
(13) Carotenoid color	12.50
(14) Cold test (oil)	10.00
(15) Color test (syrups)	6.50
(16) Cooking test (other than corn soy blend)	7.00
(17) Crude fat	10.00
(18) Crude fiber	13.00
(19) Dough handling (baking)	8.50
(20) E. coli	19.00
(21) Falling number	12.00
(22) Fat (acid hydrolysis)	14.00
(23) Fat stability (A.O.M.)	27.00
(24) Flash point (open & close cup)	14.00
(25) Free fatty acid	12.00
(26) Hydrogen ion activity (ph)	9.50
(27) Iron enrichment	15.00
(28) Iodine number/value	9.50
(29) Linolenic acid (fatty acid profile)	50.00
(30) Lipid phosphorous	47.00
(31) Lovibond color	10.00
(32) Margarine (nonfat solids)	23.60
(33) Moisture	6.00
(34) Moisture average (crackers)	4.00
(35) Moisture & volatile matter	8.50
(36) Performance test (prepared bakery mix)	32.00
(37) Peroxide value	13.50
(38) Phosphorus	14.00
(39) Popcorn kernels (total defects)	19.00
(40) Popping ratio/value popcorn	19.00
(41) Potassium bromate	20.00
(42) Protein	7.50
(43) Rope spore count	31.50
(44) Salmonella	40.00
(45) Salt or sodium content	12.50
(46) Sanitation (filth light)	24.00
(47) Sieve test	5.00
(48) Smoke point	22.00
(49) Solid fat index	85.00
(50) Specific volume (bread)	21.80
(51) Staphylococcus aureus	24.50
(52) Texture	6.50
(53) Tilletia controversa kuhn (TCK) (Qualitative)	25.20
(54) Tilletia controversa kuhn (TCK) (Quantitative)	76.00
(55) Unsaponifiable matter	25.00
(56) Urease activity	12.50
(57) Visual exam (hops pellet)	7.50
(58) Visual exam (insoluble impurities, oils & shortening)	5.00
(59) Visual exam (pasta)	10.50
(60) Visual exam (processed grain products)	12.00
(61) Visual exam (total foreign material other than cereal grains)	6.50
(62) Vitamin enrichment	7.00
(63) Vomitoxin (TLC)	40.00
(64) Vomitoxin (Qualitative)	30.00
(65) Vomitoxin (Quantitative)	40.00
(66) Water activity	20.00
(67) Wiley melting point	12.50

TABLE 4.—LABORATORY FEES [1]—Continued

Laboratory tests	Fees
(68) Other laboratory tests	[2]

[1] When laboratory test service is provided for GIPSA by a private laboratory, the applicant will be assessed a fee which, as nearly as practicable, covers the costs to GIPSA for the service provided.

[2] Fees for other laboratory tests not referenced above will be based on the noncontract hourly rate listed in Table 1.

(b) If a requested test is to be reported on a specified moisture basis, a fee for a moisture test will also be assessed.

(c) Laboratory tests referenced in Table 4 will be charged at the applicable laboratory fee listed in Table 4 when performed at field locations other than at the applicant's facility.

David R. Shipman,

Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–16819 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–EN–M

7 CFR Part 868

United States Standards for Beans

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

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) of the Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Beans. Specifically, FGIS is eliminating the factor ''clean-cut weevil-bored beans'' from the grade requirements for the class Blackeye beans and changing the grade limits for the factors ''total defects,'' ''blistered, wrinkled and/or broken beans,'' and ''splits'' for the class Baby Lima beans. FGIS is changing the standards to facilitate the marketing of beans.

EFFECTIVE DATE: August 1, 1995.

FOR FURTHER INFORMATION CONTACT: George Wollam, GIPSA–FGIS, USDA, Room 0623 South Building, P.O. Box 96454, Washington, DC, 20090–6454; telephone (202) 720–0292; FAX (202) 720–4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of the inspection service do not meet the requirements of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements in Part 868 have been approved previously by OMB and assigned OMB No. 0580–0013.

Review of Standards

On February 24, 1995, FGIS proposed in the **Federal Register** (60 FR 10336) to revise the United States Standards for Beans. Specifically, FGIS proposed eliminating the factor ''clean-cut weevil-bored beans'' from the grade requirement for the class Blackeye beans and that ''clean-cut weevil-bored beans'' be considered as ''worm-cut'' or ''insect damaged'' beans. FGIS also proposed changing the grade limits for the factors ''total defects,'' ''blistered, wrinkled and/or broken beans,'' and ''splits'' for the class Baby Lima beans to coincide with the grade limits for similar factors in other classes of beans.

Interested parties were invited to participate in the rulemaking process by submitting written comments and/or recommendations regarding the official standards. During the 90-day comment period, one written comment was received from a California bean industry group. This group pointed out that there was a typographical error in the Baby Lima bean grade chart. The factor ''splits'' was erroneously included as part of the factor ''total defects;'' ''splits'' is a separate grading factor in this class of beans. Accordingly, the proposed changes to the standards for Blackeye and Baby Lima beans are adopted as a final rule without change, and the grade chart for Baby Lima beans will be corrected to remove the factor ''splits'' (SP) from being included in the factor ''total defects.''

Final Action

Based on current market needs and other available information, FGIS is revising:

1. Section 68.134 by eliminating the grading factor ''clean-cut weevil-bored'' and by eliminating footnote 2 which states that ''Beans with more than 0.5 percent clean-cut weevil-bored beans are graded U.S. Sample grade.'' Footnotes that are presently numbered 3 and 4 are proposed to be renumbered 2 and 3, respectively.

2. Section 68.140 by changing the grading limits for the factors ''total defects,'' ''blistered, wrinkled, and/or broken beans,'' and ''splits'' to 2.0, 4.0, and 6.0 percent for U.S. Nos. 1, 2, and 3, respectively.

List of Subjects in 7 CFR Part 868

Administrative practice and procedures, Agricultural commodities, Beans.

For reasons set forth in the preamble, 7 CFR Part 868 is amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for Part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Section 868.134 is revised to read as follows:

§ 868.134 Grades and grade requirements for the class Blackeye beans.

Grade	General appearance	Percent maximum limits of—				
		Moisture [1]	Total defects (DKT, FM, CCL, & SP)	Total damaged	Foreign Material	
					Total	Stones
U.S. No. 1	The Special Grade Off-Color May Be Applied After The Removal of Total Defects.	18.0	4.0	2.0	0.5	0.2
U.S. No. 2		18.0	6.0	4.0	1.0	0.4
U.S. No. 3		18.0	8.0	6.0	1.5	0.6

Grade	Percent maximum limits of—	
	Contrasting classes [2]	Classes that Blend [3]
U.S. No. 1	0.5	5.0
U.S. No. 2	1.0	10.0
U.S. No. 3	2.0	15.0

U.S. Substandard	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.
U.S. Sample grade	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.

[1] Beans with more than 18.0 percent moisture are graded High moisture.
[2] Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
[3] Beans with more than 15.0 percent classes that blend are graded Mixed beans.

3. Section 868.140 is revised to read as follows:

§ 868.140 Grades and grade requirements for the classes Baby Lima and Miscellaneous Lima beans.

Grade	General appearance	Percent maximum limits of—				
		Moisture [1]	Total defects (DKT, FM, & CCL)	Badly damaged	Foreign material	
					Total	Stones
U.S. No. 1	The Special Grade Off-Color May Be Applied After The Removal of Total Defects.	18.0	2.0	1.0	0.5	0.2
U.S. No. 2		18.0	4.0	1.5	1.0	0.3
U.S. No. 3		18.0	6.0	2.0	1.5	0.6

Grade	Percent maximum limits of—			
	Contrasting classes [2]	Blistered, wrinkled, and/or broken	Splits	Classes that blend [3]
U.S. No. 1	0.5	2.0	2.0	5.0
U.S. No. 2	1.0	4.0	4.0	10.0
U.S. No. 3	2.0	6.0	6.0	15.0

U.S. Substandard	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.
U.S. Sample grade	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.

[1] Beans with more than 18.0 percent moisture are graded High moisture.
[2] Beans with more than 2.0 percent contrasting classes are graded Mixed beans.
[3] Beans with more than 15.0 percent classes that blend are graded Mixed beans.

Dated: July 5, 1995.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 95–16856 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–EN–P

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV95–920–2IFR]

Expenses and Assessment Rate for Marketing Order Covering Kiwifruit Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenses and establishes an assessment rate for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1995–96 fiscal year. The Committee is responsible for local administration of the marketing order which regulates the handling of California kiwifruit. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning August 1, 1995, through July 31, 1996. Comments received by August 14, 1995, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Mary Kate Nelson, Marketing Assistant, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487–5901, Fax # (209) 487–5906; or Charles Rush, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, DC 20090–6456; telephone (202) 690–3670, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, California kiwifruit are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable California kiwifruit during the 1995–96 fiscal year beginning August 1, 1995, through July 31, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are 65 handlers of kiwifruit grown in California who are subject to regulation under the kiwifruit marketing order and 600 producers of kiwifruit in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of kiwifruit producers and handlers may be classified as small entities.

The kiwifruit marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable kiwifruit handled from the beginning of such year. The budget of expenses for the 1995–96 fiscal year was prepared by the Committee and submitted to the Department for approval. The Committee consists of producers and a non-industry member. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of kiwifruit. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 14, 1995, and unanimously recommended 1995–96 marketing order expenditures of $172,683 and an assessment rate of 1.5 cents per tray or tray equivalent of kiwifruit. In comparison, 1994–95 marketing year budgeted expenditures were $169,157, which is $3,526 less than the $172,683 recommended for this fiscal year. The assessment rate of 1.5 cents per tray or tray equivalent is .5 cents more than last year's assessment rate of 1.0 cents. The major budget category for 1995–96 is $102,850 for administrative, staff and field salaries.

Assessment income for 1995–96 is estimated to total $135,000 based on anticipated fresh domestic shipments of 9 million trays or tray equivalents of kiwifruit. The assessment income will have to be augmented by $37,683 from the Committee's reserves to provide adequate funds to cover budgeted expenses. Funds in the reserve at the end of the 1995–96 fiscal year are

estimated to be $40,245. These reserve funds will be within the maximum permitted by the order of one fiscal year's expenses.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995–96 fiscal year begins on August 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable kiwifruit handled during the fiscal year; (3) handlers are aware of this rule which was recommended by the Committee at a public meeting; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

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

2. A new § 920.212 is added to read as follows:

§ 920.212 Expenses and assessment rate.

Expenses of $172,683 by the Kiwifruit Administrative Committee are authorized, and an assessment rate of 1.5 cents per tray or tray equivalent of assessable kiwifruit is established for the 1995–96 fiscal year ending on July 31, 1996. Unexpended funds may be carried over as a reserve.

Dated: July 7, 1995

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–17196 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1205

[CN–95–002]

1995 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is amending the Cotton Board Rules and Regulations by raising the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. The amended value reflects the 12-month average price received by U.S. farmers for Upland cotton for calendar year 1994.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, (202) 720–2259.

SUPPLEMENTARY INFORMATION: This rule has been determined to be ''not significant'' for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of the ruling.

The Administrator, Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule will affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule will raise the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment will be raised, the increase is small and will not significantly affect small businesses. The AMS Administrator therefore has certified that this rule will not have a significant economic impact on a substantial number of small entities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in this rule have been previously approved by OMB and were assigned control number 0581–0093.

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991. Proposed rules implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). The final implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This final rule increases the value assigned to imported cotton in the Cotton Board Rules and Regulations 7

CFR 1205.510 (b)(2). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms.

Supplemental assessments are levied at a rate of five tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency adopted the use of the calendar year average price received by U.S. farmers for Upland cotton as a benchmark for the value of domestically produced cotton. The source for this statistic is ''Agricultural Prices'', a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton.

The current value of imported cotton based on calendar year 1992 as published in the **Federal Register** (58 FR 52215) for the purpose of calculating supplemental assessments on imported cotton is $1.197 per kilogram. Using the Average Price Received by U.S. farmers for Upland cotton for the calendar year 1994, which is $0.683 per pound, the new value of imported cotton will be $1.5057 per kilogram.

An example of the assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.
One kilogram equals 2.2046 pounds.
One pound equals 0.453597 kilograms.

One dollar per bale assessment converted to kilograms. A 500 pound bale equals 226.8 kg. (500×.453597). $1 per bale assessment equals § 0.002000 per pound (1÷500) or $0.004409 per kg. (1÷226.8).

Supplemental assessment of 5/10 of one percent of the value of the cotton converted to kilograms. Average price received $0.683 per pound or $1.5057 per kg. (0.683×2.2046)=1.5057.

5/10 of one percent of the average price in kg. equals $0.007529 per kg. (1.5057×.005)

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.007529 per kg. which equals $0.011938 per kg.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510 (b)(3) are a result of such a calculation, these figures have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

As a result of implementation of national trade agreements, several changes in the harmonized tariff schedule numbering have occurred. Modifications to the harmonized tariff schedule were published in the January 4, 1995, **Federal Register** at 60 FR 1007 (Proclamation 6763 of December 23, 1994, by the President of the United States of America). Therefore, revisions to the Import Assessment Table used in the Cotton Research and Promotion program were necessary. These changes are as follows:

Deleted numbers:

5201001000, 5201002000, 5702422090, 5702491010, 5702494090, 6002920000, 6116926020, 6116926030, 6116926040, 6116929000, 6116939010, 6208920010, 6208920030, 6211320080, 6211420050, 6211420080, 6211430090, 6216001220, 6216003910, 6216003920, 6303920000,

New Numbers:

5201000000, 5201000500, 5201001200, 5201001400, 5201001800, 5201002200, 5201002400, 5201002800, 5201003400, 5201003800, 5701104000, 5701109000, 5801210000, 5804291000, 5808107000, 6002921000, 6110909022, 6110909024, 6110909030, 6110909040, 6110909042, 6115199010, 6117809010, 6117809040, 6201999060, 6203399060, 6203498045, 6201198090, 6207199010, 6210109010, 6210403000, 6210405020, 6211118010, 6211118020, 6212105020, 6212109010, 6212109020, 6217109010, 6217109030, 6302215010, 6302215020, 6302217010, 6302219010, 6302217020, 6302219020, 6302217050, 6302219050, 6302313010, 6302313050, 6302315050, 6302317010, 6302319010, 6302317020, 6302319020, 6302317040, 6302319040, 6302317050, 6302319050,

A proposed rule was published in the **Federal Register** (60 FR 21999) on May 4, 1995. Comments were due on June 5, 1995. One comment regarding the proposed rule was received during the public comment period provided for in the proposal. A number of students attending the Florida International University in Miami, Florida, offered comments in general support of the proposal. Their support was based on their opinion that small businesses and the U.S. economy in general will benefit from self-help programs like the Cotton Research and Promotion Program .

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In § 1205.510 (b)(2) and (3) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly average prices received by U.S. farmers will be calculated annually. Such average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $1.5057 per kilogram.

(3) The following table contains Harmonized Tariff Schedule (HTS) classification numbers and corresponding conversion factors and assessments. The left column of the following table indicates the HTS classifications of imported cotton and cotton-containing products subject to assessment. The center column indicates the conversion factor for determining the raw fiber content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed.

(i) Any line item entry of cotton appearing on Customs entry documentation in which the value of the cotton contained therein is less than $220.99 will not be subject to assessments as described in this section.

(ii) In the event that any HTS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the physical properties, description, or cotton content of the product involved, assessments will continue to be collected based on the new number.

IMPORT ASSESSMENT TABLE

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
5201000500	0.0000	1.1938
5201001200	0.0000	1.1938
5201001400	0.0000	1.1938
5201001800	0.0000	1.1938
5201002200	0.0000	1.1938
5201002400	0.0000	1.1938

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
5201002800	0.0000	1.1938
5201003400	0.0000	1.1938
5201003800	0.0000	1.1938
5204110000	1.1111	1.3264
5204200000	1.1111	1.3264
5205111000	1.1111	1.3264
5205112000	1.1111	1.3264
5205121000	1.1111	1.3264
5205122000	1.1111	1.3264
5205131000	1.1111	1.3264
5205132000	1.1111	1.3264
5205141000	1.1111	1.3264
5205210000	1.1111	1.3264
5205220000	1.1111	1.3264
5205230000	1.1111	1.3264
5205240000	1.1111	1.3264
5205250000	1.1111	1.3264
5205310000	1.1111	1.3264
5205320000	1.1111	1.3264
5205330000	1.1111	1.3264
5205340000	1.1111	1.3264
5205410000	1.1111	1.3264
5205420000	1.1111	1.3264
5205440000	1.1111	1.3264
5205450000	1.1111	1.3264
5206120000	0.5556	0.6633
5206130000	0.5556	0.6633
5206140000	0.5556	0.6633
5206220000	0.5556	0.6633
5206230000	0.5556	0.6633
5206240000	0.5556	0.6633
5206310000	0.5556	0.6633
5207100000	1.1111	1.3264
5207900000	0.5556	0.6633
5208112020	1.1455	1.3675
5208112040	1.1455	1.3675
5208112090	1.1455	1.3675
5208114020	1.1455	1.3675
5208114060	1.1455	1.3675
5208114090	1.1455	1.3675
5208118090	1.1455	1.3675
5208124020	1.1455	1.3675
5208124040	1.1455	1.3675
5208124090	1.1455	1.3675
5208126020	1.1455	1.3675
5208126040	1.1455	1.3675
5208126060	1.1455	1.3675
5208126090	1.1455	1.3675
5208128020	1.1455	1.3675
5208128090	1.1455	1.3675
5208130000	1.1455	1.3675
5208192020	1.1455	1.3675
5208192090	1.1455	1.3675
5208194020	1.1455	1.3675
5208194090	1.1455	1.3675
5208196020	1.1455	1.3675
5208196090	1.1455	1.3675
5208224040	1.1455	1.3675
5208224090	1.1455	1.3675
5208226020	1.1455	1.3675
5208226060	1.1455	1.3675
5208228020	1.1455	1.3675
5208230000	1.1455	1.3675
5208292020	1.1455	1.3675
5208292090	1.1455	1.3675
5208294090	1.1455	1.3675
5208296090	1.1455	1.3675
5208298020	1.1455	1.3675
5208312000	1.1455	1.3675

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
5208321000	1.1455	1.3675
5208323020	1.1455	1.3675
5208323040	1.1455	1.3675
5208323090	1.1455	1.3675
5208324020	1.1455	1.3675
5208324040	1.1455	1.3675
5208325020	1.1455	1.3675
5208330000	1.1455	1.3675
5208392020	1.1455	1.3675
5208392090	1.1455	1.3675
5208394090	1.1455	1.3675
5208396090	1.1455	1.3675
5208398020	1.1455	1.3675
5208412000	1.1455	1.3675
5208416000	1.1455	1.3675
5208418000	1.1455	1.3675
5208421000	1.1455	1.3675
5208423000	1.1455	1.3675
5208424000	1.1455	1.3675
5208425000	1.1455	1.3675
5208430000	1.1455	1.3675
5208492000	1.1455	1.3675
5208494020	1.1455	1.3675
5208494090	1.1455	1.3675
5208496010	1.1455	1.3675
5208496090	1.1455	1.3675
5208498090	1.1455	1.3675
5208512000	1.1455	1.3675
5208516060	1.1455	1.3675
5208518090	1.1455	1.3675
5208523020	1.1455	1.3675
5208523040	1.1455	1.3675
5208523090	1.1455	1.3675
5208524020	1.1455	1.3675
5208524040	1.1455	1.3675
5208524060	1.1455	1.3675
5208525020	1.1455	1.3675
5208530000	1.1455	1.3675
5208592020	1.1455	1.3675
5208592090	1.1455	1.3675
5208594090	1.1455	1.3675
5208596090	1.1455	1.3675
5209110020	1.1455	1.3675
5209110030	1.1455	1.3675
5209110090	1.1455	1.3675
5209120020	1.1455	1.3675
5209120040	1.1455	1.3675
5209190020	1.1455	1.3675
5209190040	1.1455	1.3675
5209190060	1.1455	1.3675
5209190090	1.1455	1.3675
5209210090	1.1455	1.3675
5209220020	1.1455	1.3675
5209220040	1.1455	1.3675
5209290040	1.1455	1.3675
5209290090	1.1455	1.3675
5209313000	1.1455	1.3675
5209316020	1.1455	1.3675
5209316030	1.1455	1.3675
5209316050	1.1455	1.3675
5209316090	1.1455	1.3675
5209320020	1.1455	1.3675
5209320040	1.1455	1.3675
5209390020	1.1455	1.3675
5209390040	1.1455	1.3675
5209390060	1.1455	1.3675
5209390080	1.1455	1.3675
5209390090	1.1455	1.3675
5209413000	1.1455	1.3675

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
5209416020	1.1455	1.3675
5209416040	1.1455	1.3675
5209420020	1.0309	1.2307
5209420040	1.0309	1.2307
5209430020	1.1455	1.3675
5209430040	1.1455	1.3675
5209490020	1.1455	1.3675
5209490090	1.1455	1.3675
5209516030	1.1455	1.3675
5209516050	1.1455	1.3675
5209520020	1.1455	1.3675
5209590020	1.1455	1.3675
5209590040	1.1455	1.3675
5209590090	1.1455	1.3675
5210114020	0.6873	0.8205
5210114040	0.6873	0.8205
5210116020	0.6873	0.8205
5210116040	0.6873	0.8205
5210116060	0.6873	0.8205
5210118020	0.6873	0.8205
5210120000	0.6873	0.8205
5210192090	0.6873	0.8205
5210214040	0.6873	0.8205
5210216020	0.6873	0.8205
5210216060	0.6873	0.8205
5210218020	0.6873	0.8205
5210314020	0.6873	0.8205
5210314040	0.6873	0.8205
5210316020	0.6873	0.8205
5210318020	0.6873	0.8205
5210414000	0.6873	0.8205
5210416000	0.6873	0.8205
5210418000	0.6873	0.8205
5210498090	0.6873	0.8205
5210514040	0.6873	0.8205
5210516020	0.6873	0.8205
5210516040	0.6873	0.8205
5210516060	0.6873	0.8205
5211110090	0.6873	0.8205
5211120020	0.6873	0.8205
5211190020	0.6873	0.8205
5211190060	0.6873	0.8205
5211210030	0.4165	0.4972
5211210050	0.6873	0.8205
5211290090	0.6873	0.8205
5211320020	0.6873	0.8205
5211390040	0.6873	0.8205
5211390060	0.6873	0.8205
5211490020	0.6873	0.8205
5211490090	0.6873	0.8205
5211590020	0.6873	0.8205
5212146090	0.9164	1.094
5212156020	0.9164	1.094
5212216090	0.9164	1.094
5309214010	0.2864	0.3419
5309214090	0.2864	0.3419
5309294010	0.2864	0.3419
5311004000	0.9164	1.094
5407810010	0.5727	0.6837
5407810030	0.5727	0.6837
5407912020	0.4009	0.4786
5408312020	0.4009	0.4786
5408329020	0.4009	0.4786
5408349020	0.4009	0.4786
5408349090	0.4009	0.4786
5509530030	0.5556	0.6633
5509530060	0.5556	0.6633
5513110020	0.4009	0.4786
5513110040	0.4009	0.4786

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
5513110060	0.4009	0.4786
5513110090	0.4009	0.4786
5513120000	0.4009	0.4786
5513130020	0.4009	0.4786
5513210020	0.4009	0.4786
5513310000	0.4009	0.4786
5514120020	0.4009	0.4786
5516420060	0.4009	0.4786
5516910060	0.4009	0.4786
5516930090	0.4009	0.4786
5601210010	1.1455	1.3675
5601210090	1.1455	1.3675
5601300000	1.1455	1.3675
5602109090	0.5727	0.6837
5602290000	1.1455	1.3675
5602906000	0.526	0.6279
5604900000	0.5556	0.6633
5607902000	0.8889	1.0612
5608901000	1.1111	1.3264
5608902300	1.1111	1.3264
5609001000	1.1111	1.3264
5609004000	0.5556	0.6633
5701104000	0.0556	0.0664
5701109000	0.1111	0.1326
5701901010	1.0444	1.2468
5702109020	1.1	1.3132
5702312000	0.0778	0.0929
5702411000	0.0722	0.0862
5702412000	0.0778	0.0929
5702421000	0.0778	0.0929
5702913000	0.0889	0.1061
5702991010	1.1111	1.3264
5702991090	1.1111	1.3264
5703900000	0.4489	0.5359
5801210000	1.1455	1.3675
5801230000	1.1455	1.3675
5801250010	1.1455	1.3675
5801250020	1.1455	1.3675
5801260020	1.1455	1.3675
5802190000	1.1455	1.3675
5802300030	0.5727	0.6837
5804291000	1.1455	1.3675
5806200000	0.3534	0.4219
5806310000	1.1455	1.3675
5806400000	0.4296	0.5129
5808107000	0.5727	0.6837
5808900010	0.5727	0.6837
5811002000	1.1455	1.3675
6001106000	1.1455	1.3675
6001210000	0.8591	1.0256
6001220000	0.2864	0.3419
6001910010	0.8591	1.0256
6001910020	0.8591	1.0256
6001920020	0.2864	0.3419
6001920030	0.2864	0.3419
6001920040	0.2864	0.3419
6002203000	0.8681	1.0363
6002206000	0.2894	0.3455
6002420000	0.8681	1.0363
6002430010	0.2894	0.3455
6002430080	0.2894	0.3455
6002921000	1.1574	1.3817
6002930040	0.1157	0.1381
6002930080	0.1157	0.1381
6101200010	1.0094	1.205
6101200020	1.0094	1.205
6102200010	1.0094	1.205
6102200020	1.0094	1.205
6103421020	0.8806	1.0513

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
6103421040	0.8806	1.0513
6103421050	0.8806	1.0513
6103421070	0.8806	1.0513
6103431520	0.2516	0.3004
6103431540	0.2516	0.3004
6103431550	0.2516	0.3004
6103431570	0.2516	0.3004
6104220040	0.9002	1.0747
6104220060	0.9002	1.0747
6104320000	0.9207	1.0991
6104420010	0.9002	1.0747
6104420020	0.9002	1.0747
6104520010	0.9312	1.1117
6104520020	0.9312	1.1117
6104622010	0.8806	1.0513
6104622015	0.8806	1.0513
6104622025	0.8806	1.0513
6104622030	0.8806	1.0513
6104622060	0.8806	1.0513
6104632010	0.3774	0.4505
6104632025	0.3774	0.4505
6104632030	0.3774	0.4505
6104632060	0.3774	0.4505
6104692030	0.3858	0.4606
6105100010	0.985	1.1759
6105100020	0.985	1.1759
6105100030	0.985	1.1759
6105202010	0.3078	0.3675
6105202030	0.3078	0.3675
6106100010	0.985	1.1759
6106100020	0.985	1.1759
6106100030	0.985	1.1759
6106202010	0.3078	0.3675
6106202030	0.3078	0.3675
6107110010	1.1322	1.3516
6107110020	1.1322	1.3516
6107120010	0.5032	0.6007
6107210010	0.8806	1.0513
6107220015	0.3774	0.4505
6107220025	0.3774	0.4505
6107910040	1.2581	1.5019
6108210010	1.2445	1.4857
6108210020	1.2445	1.4857
6108310010	1.1201	1.3372
6108310020	1.1201	1.3372
6108320010	0.2489	0.2971
6108320015	0.2489	0.2971
6108320025	0.2489	0.2971
6108910005	1.2445	1.4857
6108910015	1.2445	1.4857
6108910025	1.2445	1.4857
6108910030	1.2445	1.4857
6108920030	0.2489	0.2971
6109100005	0.9956	1.1885
6109100007	0.9956	1.1885
6109100009	0.9956	1.1885
6109100012	0.9956	1.1885
6109100014	0.9956	1.1885
6109100018	0.9956	1.1885
6109100023	0.9956	1.1885
6109100027	0.9956	1.1885
6109100037	0.9956	1.1885
6109100040	0.9956	1.1885
6109100045	0.9956	1.1885
6109100060	0.9956	1.1885
6109100065	0.9956	1.1885
6109100070	0.9956	1.1885
6109901007	0.3111	0.3714
6109901009	0.3111	0.3714

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
6109901049	0.3111	0.3714
6109901050	0.3111	0.3714
6109901060	0.3111	0.3714
6109901065	0.3111	0.3714
6109901090	0.3111	0.3714
6110202005	1.1837	1.4131
6110202010	1.1837	1.4131
6110202015	1.1837	1.4131
6110202020	1.1837	1.4131
6110202025	1.1837	1.4131
6110202030	1.1837	1.4131
6110202035	1.1837	1.4131
6110202040	1.1574	1.3817
6110202045	1.1574	1.3817
6110202065	1.1574	1.3817
6110202075	1.1574	1.3817
6110909022	0.263	0.314
6110909024	0.263	0.314
6110909030	0.3946	0.4711
6110909040	0.263	0.314
6110909042	0.263	0.314
6111201000	1.2581	1.5019
6111202000	1.2581	1.5019
6111203000	1.0064	1.2014
6111205000	1.0064	1.2014
6111206010	1.0064	1.2014
6111206020	1.0064	1.2014
6111206030	1.0064	1.2014
6111206040	1.0064	1.2014
6111305020	0.2516	0.3004
6111305040	0.2516	0.3004
6112110050	0.7548	0.9011
6112120010	0.2516	0.3004
6112120030	0.2516	0.3004
6112120040	0.2516	0.3004
6112120050	0.2516	0.3004
6112120060	0.2516	0.3004
6112390010	1.1322	1.3516
6112490010	0.9435	1.1264
6114200005	0.9002	1.0747
6114200010	0.9002	1.0747
6114200015	0.9002	1.0747
6114200020	1.286	1.5352
6114200040	0.9002	1.0747
6114200046	0.9002	1.0747
6114200052	0.9002	1.0747
6114200060	0.9002	1.0747
6114301010	0.2572	0.307
6114301020	0.2572	0.307
6114303030	0.2572	0.307
6115199010	1.0417	1.2436
6115922000	1.0417	1.2436
6115932020	0.2315	0.2764
6116101300	0.3655	0.4363
6116101720	0.8528	1.0181
6116926420	1.0965	1.309
6116926430	1.2183	1.4544
6116926440	1.0965	1.309
6116928800	1.0965	1.309
6117809010	0.9747	1.1636
6117809040	0.3655	0.4363
6201121000	0.948	1.1317
6201122010	0.8953	1.0688
6201122050	0.6847	0.8174
6201122060	0.6847	0.8174
6201134030	0.2633	0.3143
6201921000	0.9267	1.1063
6201921500	1.1583	1.3828
6201922010	1.0296	1.2291

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
6201922021	1.2871	1.5365
6201922031	1.2871	1.5365
6201922041	1.2871	1.5365
6201922051	1.0296	1.2291
6201922061	1.0296	1.2291
6201931000	0.3089	0.3688
6201933511	0.2574	0.3073
6201933521	0.2574	0.3073
6201999060	0.2574	0.3073
6202121000	0.9372	1.1188
6202122010	1.1064	1.3208
6202122025	1.3017	1.554
6202122050	0.8461	1.0101
6202122060	0.8461	1.0101
6202134005	0.2664	0.318
6202134020	0.333	0.3975
6202921000	1.0413	1.2431
6202921500	1.0413	1.2431
6202922026	1.3017	1.554
6202922061	1.0413	1.2431
6202922071	1.0413	1.2431
6202931000	0.3124	0.3729
6202935011	0.2603	0.3107
6202935021	0.2603	0.3107
6203122010	0.1302	0.1554
6203221000	1.3017	1.554
6203322010	1.2366	1.4763
6203322040	1.2366	1.4763
6203332010	0.1302	0.1554
6203392010	1.1715	1.3985
6203399060	0.2603	0.3107
6203422010	0.9961	1.1891
6203422025	0.9961	1.1891
6203422050	0.9961	1.1891
6203422090	0.9961	1.1891
6203424005	1.2451	1.4864
6203424010	1.2451	1.4864
6203424015	0.9961	1.1891
6203424020	1.2451	1.4864
6203424025	1.2451	1.4864
6203424030	1.2451	1.4864
6203424035	1.2451	1.4864
6203424040	0.9961	1.1891
6203424045	0.9961	1.1891
6203424050	0.9238	1.1028
6203424055	0.9238	1.1028
6203424060	0.9238	1.1028
6203431500	0.1245	0.1486
6203434010	0.1232	0.1471
6203434020	0.1232	0.1471
6203434030	0.1232	0.1471
6203434040	0.1232	0.1471
6203492010	0.1245	0.1486
6203498045	0.249	0.2973
6204132010	0.1302	0.1554
6204192000	0.1302	0.1554
6204198090	0.2603	0.3107
6204221000	1.3017	1.554
6204223030	1.0413	1.2431
6204223040	1.0413	1.2431
6204223050	1.0413	1.2431
6204223060	1.0413	1.2431
6204223065	1.0413	1.2431
6204292040	0.3254	0.3885
6204322010	1.2366	1.4763
6204322030	1.0413	1.2431
6204322040	1.0413	1.2431
6204423010	1.2728	1.5195
6204423030	0.9546	1.1396

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
6204423040	0.9546	1.1396
6204423050	0.9546	1.1396
6204423060	0.9546	1.1396
6204522010	1.2654	1.5106
6204522030	1.2654	1.5106
6204522040	1.2654	1.5106
6204522070	1.0656	1.2721
6204522080	1.0656	1.2721
6204533010	0.2664	0.318
6204594060	0.2664	0.318
6204622010	0.9961	1.1891
6204622025	0.9961	1.1891
6204622050	0.9961	1.1891
6204624005	1.2451	1.4864
6204624010	1.2451	1.4864
6204624020	0.9961	1.1891
6204624025	1.2451	1.4864
6204624030	1.2451	1.4864
6204624035	1.2451	1.4864
6204624040	1.2451	1.4864
6204624045	0.9961	1.1891
6204624050	0.9961	1.1891
6204624055	0.9854	1.1764
6204624060	0.9854	1.1764
6204624065	0.9854	1.1764
6204633510	0.2546	0.3039
6204633530	0.2546	0.3039
6204633532	0.2437	0.2909
6204633540	0.2437	0.2909
6204692510	0.249	0.2973
6204692540	0.2437	0.2909
6204699044	0.249	0.2973
6204699046	0.249	0.2973
6204699050	0.249	0.2973
6205202015	0.9961	1.1891
6205202020	0.9961	1.1891
6205202025	0.9961	1.1891
6205202030	0.9961	1.1891
6205202035	1.1206	1.3378
6205202046	0.9961	1.1891
6205202050	0.9961	1.1891
6205202060	0.9961	1.1891
6205202065	0.9961	1.1891
6205202070	0.9961	1.1891
6205202075	0.9961	1.1891
6205302010	0.3113	0.3716
6205302030	0.3113	0.3716
6205302040	0.3113	0.3716
6205302050	0.3113	0.3716
6205302070	0.3113	0.3716
6205302080	0.3113	0.3716
6206100040	0.1245	0.1486
6206303010	0.9961	1.1891
6206303020	0.9961	1.1891
6206303030	0.9961	1.1891
6206303040	0.9961	1.1891
6206303050	0.9961	1.1891
6206303060	0.9961	1.1891
6206403010	0.3113	0.3716
6206403030	0.3113	0.3716
6206900040	0.249	0.2973
6207110000	1.0852	1.2955
6207199010	0.3617	0.4318
6207210010	1.1085	1.3233
6207210030	1.1085	1.3233
6207220000	0.3695	0.4411
6207911000	1.1455	1.3675
6207913010	1.1455	1.3675
6207913020	1.1455	1.3675

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
6208210010	1.0583	1.2634
6208210020	1.0583	1.2634
6208220000	0.1245	0.1486
6208911010	1.1455	1.3675
6208911020	1.1455	1.3675
6208913010	1.1455	1.3675
6209201000	1.1577	1.3821
6209203000	0.9749	1.1638
6209205030	0.9749	1.1638
6209205035	0.9749	1.1638
6209205040	1.2186	1.4548
6209205045	0.9749	1.1638
6209205050	0.9749	1.1638
6209303020	0.2463	0.294
6209303040	0.2463	0.294
6210109010	0.2291	0.2735
6210403000	0.0391	0.0467
6210405020	0.4556	0.5439
6211111010	0.1273	0.152
6211111020	0.1273	0.152
6211118010	1.1455	1.3675
6211118020	1.1455	1.3675
6211320007	0.8461	1.0101
6211320010	1.0413	1.2431
6211320015	1.0413	1.2431
6211320030	0.9763	1.1655
6211320060	0.9763	1.1655
6211320070	0.9763	1.1655
6211330010	0.3254	0.3885
6211330030	0.3905	0.4662
6211330035	0.3905	0.4662
6211330040	0.3905	0.4662
6211420010	1.0413	1.2431
6211420020	1.0413	1.2431
6211420025	1.1715	1.3985
6211420060	1.0413	1.2431
6211420070	1.1715	1.3985
6211430010	0.2603	0.3107
6211430030	0.2603	0.3107
6211430040	0.2603	0.3107
6211430050	0.2603	0.3107
6211430060	0.2603	0.3107
6211430066	0.2603	0.3107
6212105020	0.2412	0.2879
6212109010	0.9646	1.1515
6212109020	0.2412	0.2879
6212200020	0.3014	0.3598
6212900030	0.1929	0.2303
6213201000	1.1809	1.4098
6213202000	1.0628	1.2688
6213901000	0.4724	0.564
6214900010	0.9043	1.0796
6216000800	0.2351	0.2807
6216001720	0.6752	0.8061
6216003800	1.2058	1.4395
6216004100	1.2058	1.4395
6217109010	1.0182	1.2155
6217109030	0.2546	0.3039
6301300010	0.8766	1.0465
6301300020	0.8766	1.0465
6302100010	1.1689	1.3954
6302215010	0.8182	0.9768
6302215020	0.8182	0.9768
6302217010	1.1689	1.3954
6302217020	1.1689	1.3954
6302217050	1.1689	1.3954
6302219010	0.8182	0.9768
6302219020	0.8182	0.9768
6302219050	0.8182	0.9768

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS classification	Conversion factor	Cents/ kg.
6302222010	0.4091	0.4884
6302222020	0.4091	0.4884
6302313010	0.8182	0.9768
6302313050	1.1689	1.3954
6302315050	0.8182	0.9768
6302317010	1.1689	1.3954
6302317020	1.1689	1.3954
6302317040	1.1689	1.3954
6302317050	1.1689	1.3954
6302319010	0.8182	0.9768
6302319020	0.8182	0.9768
6302319040	0.8182	0.9768
6302319050	0.8182	0.9768
6302322020	0.4091	0.4884
6302322040	0.4091	0.4884
6302402010	0.9935	1.186
6302511000	0.5844	0.6977
6302512000	0.8766	1.0465
6302513000	0.5844	0.6977
6302514000	0.8182	0.9768
6302600010	1.1689	1.3954
6302600020	1.052	1.2559
6302600030	1.052	1.2559
6302910005	1.052	1.2559
6302910015	1.1689	1.3954
6302910025	1.052	1.2559
6302910035	1.052	1.2559
6302910045	1.052	1.2559
6302910050	1.052	1.2559
6302910060	1.052	1.2559
6303110000	0.9448	1.1279
6303910000	0.6429	0.7675
6304111000	1.0629	1.2689
6304190500	1.052	1.2559
6304191000	1.1689	1.3954
6304191500	0.4091	0.4884
6304192000	0.4091	0.4884
6304910020	0.9351	1.1163
6304920000	0.9351	1.1163
6505901540	1.181	1.4099
6505902060	0.9935	1.186
6505902545	0.5844	0.6977

* * * * *

Dated: July 7, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–17195 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19 and 20

RIN 3150–AE80

Radiation Protection Requirements: Amended Definitions and Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise the radiation protection training requirement so that it applies to workers who are likely to receive, in a year, occupational dose in excess of 100 mrem (1 mSv); revise the definition of ''Member of the public'' to include anyone who is not a worker receiving an occupational dose; revise the definition of ''Occupational Dose'' to delete reference to location so that the occupational dose limit applies only to workers whose assigned duties involve exposure to radiation and not to members of the public; revise the definition of ''Public Dose'' to apply to dose received by members of the public from material released by a licensee or from any other source of radiation under the control of the licensee; assure that prior dose is determined for anyone subject to the monitoring requirements in 10 CFR part 20, or in other words, anyone likely to receive, in a year, 10 percent of the annual occupational dose limit; and retain a requirement that known overexposed individuals receive copies of any reports of the overexposure that are required to be submitted to the NRC. This change highlights a requirement which requires licensees to inform members of the public that they have been overexposed. These amendments are necessary to clarify criteria that determine when radiation protection training is required and to restore a notification requirement.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Alan Roecklein, Office of Nuclear Regulatory Research, Mail Stop T–9 C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6223.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991 (56 FR 23360), the NRC amended 10 CFR part 20 to add its revised ''Standards for Protection Against Radiation'' (10 CFR 20.1001–20.2402). Compliance became mandatory for all licensees on January 1, 1994. Extensive discussions regarding interpretations and implementation of the new regulations resulted in a proposed rulemaking (February 3, 1994; 59 FR 5132), which would amend certain definitions and criteria in 10 CFR part 19 and the new 10 CFR part 20. As a result of public comments and further NRC staff discussions, the NRC is taking the following actions on the proposed changes.

The proposed rule would have revised § 19.12, Instructions to workers, so that training in radiation protection would be required of an individual, who in the course of employment had assigned duties involving the potential for exposure to radiation. This was intended to correct the current regulations that require radiation protection training for individuals who work in or frequent any portion of a restricted area. It is believed that the current rule may result in some workers not receiving training even though they may exceed public dose limits during assigned duties. Seven commenters objected to the phrase ''potential for'' exposure to radiation stating that it was vague and might require training for a large number of workers not currently being trained or receiving significant exposure. These same commenters requested use of the words ''likely to receive'' since it would be consistent with language in the § 20.1502 monitoring requirement, and all added suggestions for a threshold of 100 mrem (1 mSv) in a year. These comments were convincing and this final rule adopts the new training criterion as ''All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv) shall be * * *.''

This approach clearly provides radiation protection training to workers whose assignments are likely to result in occupational exposure. Adoption of the 100 mrem (1 mSv) in a year criterion is believed to provide reasonable assurance that those workers that are likely to receive a small fraction of the occupational dose limit will be trained without resulting in an undue burden on licensees in providing training to workers. The rule does not prohibit licensees from providing training to workers who are not expected to exceed 100 mrem (1 mSv) in a year. General employee safety training required by Occupational Safety and Health Administration (OSHA) and others is not waived by this rule.

In addition, § 20.1101(b) requires that licensees adopt procedures and engineering controls to achieve occupational doses and doses to members of the public that are as low as is reasonably achievable (ALARA). Radiation protection training programs continue to be an important element of an ALARA program.

Training is an effective mechanism for helping to minimize radiation exposure to workers. Most workers who work in or frequent restricted areas are currently provided training on radiation safety issues. Typically, this training includes instruction on the procedures that would be used to minimize radiation exposure such as limiting time in certain areas and actions to be taken in the case of an accident. In addition,

individuals who enter areas to perform services such as maintenance or cleaning should be provided information on the location of radioactive material and should be instructed to avoid contact with radioactive material.

For interpretation of this rule, the words ''* * * likely to receive * * *'' include normal situations as well as abnormal situations involving exposure to radiation which can reasonably be expected to occur during the life of a licensed facility. For example, reactor licensees should consider both normal operations and anticipated operational occurrences (AOOs). AOOs can include, for example, unplanned onsite events involving spills of reactor coolant; sudden increases in external radiation levels (loss of shielding); and a loss of control of radioactive materials leading to a localized high airborne radioactivity area. However, reactors would not need to consider for the purpose of 10 CFR 19.12(b) those design basis accidents analyzed in FSARs which are not reasonably expected to occur but which are hypothesized or postulated for the purpose of establishing conservative design requirements for safety equipment.

The decision as to whether a specific worker is likely to receive in a year a dose in excess of 100 mrem (1 mSv) cannot be based solely on past experiences at a given facility or the exposure history of the individual. These decisions may need to take into account the impact training might have on maintaining exposures below 100 mrem (1 mSv) in a year for certain workers.

For example, certain workers such as janitors or maintenance workers who either frequent restricted areas or work in the vicinity of restricted areas, and are likely to receive doses in excess of 100 mrem (1 mSv) unless properly trained, should receive training sufficient to prepare them to avoid unnecessary exposure. On the other hand, clerical workers, who may work in restricted areas but whose duties are unlikely to involve direct interaction with radioactive material, are unlikely to receive doses in excess of 100 mrem (1 mSv) in a year, and for whom training would have no bearing on exposures, would not necessarily require training just because of the location of their work.

The final rule adds the following language to 10 CFR 19.12(b) to clarify that these situations would be included in the phrase ''likely to receive'': In determining those individuals subject to the requirements of paragraph (a) of this section, licensees must take into consideration assigned activities during normal and abnormal situations involving exposure to radiation and/or radioactive material which can reasonably be expected to occur during the life of a licensed facility. This clarification has been integrated with the existing requirement that the training should be commensurate with the potential health protection problems present in the workplace. Further, the format of § 19.12 is revised to clearly indicate the requirements for training which previously were combined in a single long paragraph.

The proposed rule would have deleted the definition of, and numerous references to, the ''Controlled Area.'' The intent was to make it clear that any area to which access is restricted for the purpose of radiological protection is a ''Restricted Area'' as defined in the regulation and thus appropriate radiation protection measures associated with restricted areas would apply. Neither the existing definitions nor the supplemental information to the new regulations provide a basis for deciding whether to designate a given area as a ''Restricted Area,'' or a ''Controlled Area,'' and there was a concern that some confusion had resulted regarding how to implement the new standards.

Deletion of ''Controlled Area'' was supported by three Agreement States and several materials licensees. However, six power reactor licensees and the Nuclear Energy Institute (NEI), argued that deletion of ''Controlled Area'' would constitute a major and costly backfit. The commenters stated that nuclear power plants have areas that sometimes exceed 2 mrem (0.02 mSv) in an hour, but to which access can easily be restricted so that no one can exceed 100 mrem (1 mSv) in a year. The power reactor licensees argued that to change written procedures and facilities to remove existing ''Controlled Areas'' would be costly. These licensees believed that using controlled areas permits better ''defense'' of restricted areas. Also, the utilities said that if unrestricted area boundaries were moved inward, power licensees could have difficulty monitoring occupancy and calculating effluent doses to demonstrate compliance with the public dose limits. The commenters stated that if restricted area boundaries were moved outward, the cost of applying unneeded radiation protection measures to large areas would be extensive. NEI stated that the cost per plant to delete the term ''Controlled Area'' now would be from 10 to 100 thousand dollars per plant with no significant benefit to health and safety.

The NRC agrees with the backfit argument. The concept of Controlled Area is not deleted from 10 CFR Part 20.

The proposed rule would have revised the definition of ''Public Dose'' so that a licensee was responsible for dose to any member of the public, from effluents or any other source of radiation under the control of the licensee, regardless of location. The current rule limits dose to a member of the public from radiation within a licensee's controlled area or in unrestricted areas, but permits member of the public to receive a dose up to the occupational limit within the licensee's restricted area. Public comment supported the proposed change and it is adopted in the final rule. The definition of ''Public Dose'' thus means the dose received by a member of the public from exposure to radiation and/or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. The change is consistent with the new definition of ''Occupational Dose,'' also made final by this rulemaking action, and eliminates the possibility that a member of the public could become subject to occupational dose limits simply by entering a restricted area. This change also makes it clear that licensees are not responsible for doses from sources not under their control. This change does not relieve a licensee from responsibility for, nor does it limit a licensee's flexibility in, determining whether individual doses received are occupational or public. Further guidance on this issue is provided in question and answer numbers 26 and 444 in NUREG/CR–6204,[1] ''Questions and Answers Based on Revised 10 CFR Part 20.''

The proposed rule included a revision to the definition of ''Member of the Public,'' so that an individual is a member of the public except when that individual is a worker receiving an occupational dose. Part 20 currently defines ''Member of the Public'' as an individual in a controlled or unrestricted area. This permits the radiation dose to a member of the public to be controlled by occupational dose limits rather than public dose limits solely because the individual entered a restricted area. The proposed change was supported by public comment and

[1] Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

is adopted. This change further clarifies that a member of the public is limited to the public dose limit regardless of where the individual is located.

Section 20.2104(a), currently requires determination of prior occupational dose for each individual who may enter a licensee's restricted or controlled area and is likely to receive, in a year, an occupational dose requiring monitoring pursuant to § 20.1502. The final rule adopts the following change. Determination of prior dose will be required for any individual who is likely to receive, in a year, an occupational dose requiring monitoring, pursuant to § 20.1502. Thus, under the new regulations, prior dose determinations are based only on the likelihood of receiving significant occupational dose, not on where an individual may be located.

Before issuance of the revised standards for protection against radiation, § 20.409(b) provided that whenever a licensee is required to report to the Commission any overexposure of an identified individual worker or member of the public to radiation and/or radioactive material, the licensee must also notify that individual.[2] Although, it was the intent of the Commission that this provision remain in 10 CFR Part 20, the requirement was inadvertently omitted from the revised standards. Accordingly, § 20.2205 was proposed to clearly restore to 10 CFR Part 20, the requirement that individual workers and members of the public are to be notified of their exposure when such individuals receive doses in excess of the dose limits that would require notifying the NRC. This proposed addition was supported by public comment and is codified here. Under § 20.2205, the licensee's obligation to notify an individual will be triggered if (and only if) the licensee's required report to NRC identifies that individual by name as having received an exposure to radiation and/or to radioactive material. The licensee's obligation to identify individuals in a required report to the NRC is provided for in 10 CFR 20.2203. If an assessment, analysis or evaluation of an exposure incident is provided to the NRC then it must also be provided to the individual.

The proposed rule would have changed the definition of ''Unrestricted area'' to ''* * * any area that is not a restricted area.'' With retention of the ''Controlled area'' concept this change is not needed.

Changes were proposed to §§ 20.1301, 20.1302, 20.1801, and 20.1802 to accommodate the proposed deletion of the ''Controlled area'' term. These changes are not needed in view of the decision to retain ''Controlled Area,'' and are withdrawn.

Public Comments

Proposed revisions to 10 CFR Parts 19 and 20 were published on February 3, 1994 (59 FR 5132). The public comment period closed on April 4, 1994. Twenty-three letters of public comment were received. Comment letters were received from four Agreement States, seven nuclear utilities and an extensive commentary from the Nuclear Energy Institute (NEI) for the nuclear power industry. Two radiopharmaceutical manufacturers, two radiation protection services firms, three interested individuals, National Institute of Science and Technology (NIST), the Department of Veterans Affairs, the American Iron and Steel Institute, Continental Airlines and Columbia Gas responded to the proposed rule request for comment.

All of the Agreement States and Continental Airlines agreed in general with the proposed rule. The State of Texas suggested further revision of 10 CFR 20.1801, which states ''The licensee shall secure from unauthorized removal or access licensed materials that are stored in unrestricted areas.'' Texas would delete the words ''in unrestricted areas,'' arguing that materials can be stored in restricted areas as well. The NRC agrees but because other provisions for access control to restricted areas exist and are considered adequate to prevent unauthorized removal of sources, this suggestion is rejected.

Columbia Gas supported the proposed rule, but questioned the proposed wording of the training requirement in § 19.12. This commenter suggested adding the underlined words as follows: ''All individuals who in the course of employment with a licensee or a contractor to a licensee in which * * *.'' This suggestion is not included because many individuals, such as INPO and NRC representatives, often require training but are not employees or contractors to the licensee.

Both radiopharmaceutical firms, the Department of Veterans Affairs, the American Iron and Steel Institute, and a radiation protection service firm questioned basing training requirements on the ''potential'' for exposure. These commenters argued that this term was so vague that prudence would require training everyone. Each of these commenters suggested language consistent with the monitoring requirement in § 20.1502, ''individuals *likely to receive* exposure.'' In addition, the public dose limit of 100 mrem (1 mSv) in a year was suggested by several commenters as a threshold for training. These suggestions are incorporated into the final rule. The phrase ''likely to receive'' has been clarified in § 19.12(b) and in this statement of considerations.

NIST argued that removing the definition of ''Controlled Area'' while explicitly permitting its use in the statement of considerations, accomplishes little. NIST stated that although 2 mrem (0.02 mSv) in any hour is a boundary condition for the unrestricted area, the current regulations do not make it clear that a dose greater than 2 mrem (0.02 mSv) must be a boundary condition for the restricted area. NIST also stated that it is the public dose limit (100 mrem (1 mSv) in a year) that distinguishes a restricted area from an unrestricted area. NIST also stated that within the existing definition a restricted area is any area to which access is controlled for radiological purposes. Since the concept of a controlled area has demonstrated usefulness to certain types of licensees and does not affect the permissible dose to a member of the public the definition of ''Controlled Area'' is retained.

NIST objected to the proposed definition of ''Occupational dose'' on the grounds that it is vague and suggested that licensees should be required to specifically identify those individuals subject to occupational dose limits. NIST suggested adding a definition of a ''worker'' as someone subject to occupational dose limits. This suggestion is not added to the final rule because licensees must designate individuals as either occupationally exposed or members of the public. The NRC believes that the language in the definition of occupational dose makes it clear that only individuals designated by the licensee are subject to occupational dose limits.

A radiation protection service firm questioned the proposed definition of ''Occupational dose'' because it does not specify who assigns the individuals duties. The NRC believes that it is clearly the responsibility of licensees to control occupational dose and thus licensees must be directly or indirectly responsible for assigning individual duties.

This commenter also objected to deletion of the definition of ''Controlled Area'' because for many general licensees using sealed sources such as gauges, it serves as an intermediate area

[2] See also 10 CFR 19.13(d) when a licensee is required to report to the Commission any exposure of an individual to radiation or radioactive material, the licensee must also provide the individual a report on their exposure data.

between restricted and unrestricted areas where dose rates might exceed 2 mrem (0.02 mSv) in any one hour but where doses would not exceed l00 mrem (1 mSv) in a year. The commenter observes that installation of shielding and other dose reduction measures would be very costly for these licensees.

An individual commenter suggested that before the inclusion of the term ''Controlled Area,'' nuclear power plants had two kinds of restricted areas, (1) inside the site boundary for effluent and public dose control; and (2) a smaller area within the plant for occupational radiation protection. The term ''Controlled Area'' replaced the former and is used to control exposure to the public. This commenter suggested that deletion of the controlled area concept would create problems with respect to calculating effluent doses at the boundary of the smaller restricted area because of uncertainty in the uniformity of concentrations at distances close to the release point.

NEI supported by six nuclear utilities with comments, strongly opposed deletion of the term ''Controlled Area.'' These commenters contended that nuclear power plants are not having difficulty, nor is there any confusion, with implementing the new rules. Further, nuclear plants have extensive experience with the use of the term ''controlled area.'' The physical plant designs at nuclear plants make it practical to control access to controlled areas to assure compliance with public dose limits. Finally, the existence of a controlled area in many cases permits better control of access to restricted areas.

These commenters noted that removing the provision for controlled areas now would require extensive and costly changes in procedures and plant layout and would constitute a backfit. NEI estimated a cost of from 10 to 100 thousand dollars per plant just for changing procedures and training. Deleting controlled areas would require changing unrestricted area boundaries. This would result in problems with monitoring occupancy factors and calculating effluent concentrations in close proximity to release points to monitor public dose.

NEI, NIST and five nuclear utilities objected to the proposed criterion for training indicating that the ''potential for exposure'' language is vague. NEI estimated that this wording would add significantly to training costs (50 percent) with no decrease in dose. These commenters also suggested that training should be required for anyone likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv).

As a result of its analysis of public comments, the NRC has decided that changes to the proposed rule are necessary. The definition of the term ''Controlled Area'' is retained but licensees are reminded that the dose limits for members of the public apply. The training requirement is revised so that workers who are likely to receive in a year, an occupational dose in excess of 100 mrem (1 mSv) shall receive training.

Agreement States

The amendments apply to all NRC licensees and are considered matters of compatibility for the Agreement States. The division classification for the changes are: the changes in definitions in § 20.1003 and the changes in § 20.2104 are considered Division I items; the change to § 19.12 is considered a Division II item; and the addition of § 20.2205 is considered a Division III item. The proposed changes had been discussed in June 1994, with Agreement State representatives and there was strong support for the proposed changes. Four States commented during the comment period and supported the proposed amendments. Subsequent to the comment period, the Organization of Agreement States submitted a letter that, among other things, presented that the Agreement States unanimously voted to oppose retention of the controlled area concept in 10 CFR Part 20. One of the primary reasons stated was because they found little value in adopting this provision for materials licensees. The NRC has decided to retain the definition of Controlled area, and since the designation of an area as controlled is optional for licensees it is considered to be a division III matter of compatibility. Use of the designation ''restricted area'' alone is sufficient to assure protection of individuals against undue risks from exposure to radiation and radioactive materials.

Finding of No Significant Environmental Impact: Availability

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule will not be a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required.

Changing the definition of ''Occupational dose'' to make it clear that individual's whose assigned duties involve exposure to radiation and radioactivity are subject to radiation protection procedures associated with occupational exposure and that members of the public cannot be permitted to receive doses that exceed public dose limits just by entering a restricted area is considered a benefit with no environmental impact. This change will have no effect on the type or quantity of material released into the environment and, if anything, will make it less likely for members of the public to be exposed to more than public dose limits.

Amending the radiation protection training requirements to clarify that they apply to individuals who are likely to receive, in a year, an occupational dose in excess of 100 mrem (1 mSv), regardless of whether they may or may not be within a restricted area, will result in no impact on the environment.

Adding § 20.2205 which clearly restores the requirement that individual workers and individual members of the public are notified that they have been exposed to radiation or radioactive material in excess of the dose limits whenever NRC is notified, will have no impact on the environment.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Alan K. Roecklein, U.S. NRC, 11555 Rockville Pike, Rockville, MD 20852, (301) 415–6223.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–044, 3150–0014, 3150–0005, and 3150–0006.

Regulatory Analysis

The NRC has prepared a regulatory analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the regulatory analysis are available from Alan K. Roecklein, U.S. NRC, 11555 Rockville Pike, Rockville, MD 20852, (301) 415–6223.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The amendments apply to all NRC and Agreement State licensees. Because these amendments only clarify, restore, and conform existing requirements to the 1991 version of Part 20, they are considered to have no significant economic impact on any large or small entities.

Backfit Analysis

Because 10 CFR Parts 19 and 20 apply to all NRC licensees, any proposed changes to these parts must be evaluated to determine if these changes constitute backfitting for reactor licensees such that the provisions of 10 CFR 50.109, ''Backfitting,'' apply. These requirements apply to the rule only to the extent the changes affect reactor licensees. That evaluation follows.

The final rule consists of six changes: (1) Modification of the training requirement contained in 10 CFR 19.12; (2) deletion of the phrase ''in a restricted area'' contained in the definition of occupational dose; (3) revision of the definition of ''Public dose'' so that it applies to dose to the public from sources under the control of the licensee; (4) revision of the definition of ''Member of the public'' so that it includes anyone who is not receiving an occupational dose; (5) revision of § 20.2104(a) so that prior dose must be determined for anyone who is likely to require monitoring; and (6) retaining a requirement in Part 20 so that known overexposed individuals receive copies of any reports of the overexposure that are required to be submitted to the NRC.

The change to 10 CFR 19.12 is consistent with the revised definition of occupational exposure. Because occupational dose is to be based upon the individual's activities involving radiation and/or radioactive materials, rather than the location of the work (e.g., restricted area), a conforming change in Part 19 is needed to ensure that workers who receive an occupational dose are appropriately trained regardless of the physical location where the work is performed. This is also needed so that members of the public, such as delivery persons, who occasionally enter a restricted area will not be required to receive occupational training merely because they enter a restricted area when their potential exposures do not exceed the 100 mrem (1 mSv) public dose limit and their activities, therefore, would not subject them to any significant risk.

The NRC staff believes that the impact of the change to 10 CFR Part 19.12 is negligible for 10 CFR Part 50 licensees, given that the expected numbers of additional occupationally exposed individuals requiring training is small relative to the number of workers already receiving training at these facilities and compared to the number who will no longer require training only because they enter a restricted area. In any case requiring training of additional workers who do not enter a restricted area but who are exposed to radiation in excess of the 100 mrem (1 mSv) in a year is considered as providing a substantial improvement in safety for those individuals. Since the training would address ALARA and measures to reduce exposure, this training would assist those workers in controlling risk. Given the overall reduction in training and the fact that the additional trained workers will experience a significant improvement in safety, this change is justified under 10 CFR 50.109.

The deletion of the phrase ''in a restricted area or,'' contained in the definition of occupational dose is to ensure that the Commission's intent to apply the dose limits of 10 CFR 20.1301 to members of the public regardless of their physical location, is properly implemented. Currently, only occupationally exposed individuals are subject to the higher occupational dose limits and just because a member of the public is permitted entry into a restricted area does not mean that he or she should be allowed to receive an occupational dose and exceed the public dose limit. For this reason, the reference to a restricted area is removed from the definition of occupational dose.

The staff believes that designating employment and assigned duties as criteria for determining that exposure is occupational will have little impact on Part 50 licensed operations, other than to make it even more unlikely that members of the public will be subject to occupational dose limits.

Changing the definition of ''Public dose'' so that it is not dependent on where an individual is, and so that licensees are responsible for doses to the public only from effluents and from sources under their control, adds no significant burden to Part 50 licensees. This change is consistent with the changes to ''Occupational dose'' and is considered clarifying.

Revising the definition of ''Member of the public'' is conforming with the revised definition of ''Occupational dose,'' and makes it clear that a member of the public does not become a worker just by entering a restricted area. This change has no significant impact on Part 50 licensees.

The requirement to determine prior dose is changed so that the possibility of entering a restricted or controlled area is no longer a condition. Prior dose determination is only required if an individual is likely to receive, in a year, an occupational dose requiring monitoring, which is not a change. This change is considered to have little impact on Part 50 licensees.

The addition of 10 CFR 20.2205, ''Reports to individuals of exceeding dose limits'' is considered to be the restoration of a previous requirement. The provisions of 10 CFR 20.409(b) required licensees to notify an individual worker or member of the public whenever a report to the NRC is required regarding an exposure of the identified individual. This requirement was inadvertently omitted from the revised standards published on May 21, 1991, (56 FR 23360).[2] Although few incidents occur that involve exposure of a member of the public in excess of dose limits, restoring this provision to Part 20 will ensure that licensees are aware of their obligation to notify members of the public as well as workers if, and when, they are required to submit a report to the NRC of an occurrence that identifies that individual as having received an overexposure. If an assessment, analysis or evaluation of an exposure incident is provided to the NRC then it must also be provided to the identified individual.

The NRC believes that these changes to 10 CFR Part 20 will have some, albeit minor, impacts on reactor licensees. Licensees who have implemented the revised standards, or who have written procedures to do so, will need to revise those procedures to reflect the changes. Benefits such as simplifying the use of occupational and public dose designation, making it clear that only workers can receive occupational dose, relating training requirements to the likelihood of receiving occupational exposure and ensuring that overexposed individuals are notified, are considered by the NRC to far outweigh the impacts. However, these benefits are qualitative in nature, and are expressed in terms of reduced uncertainty in regulatory requirements, clarity of regulatory intent, and consistency of regulatory approach. Thus, the NRC believes that the modifications are not backfits.

[2] See also 10 CFR 19.13(d) when a licensee is required to report to the Commission any exposure of an individual to radiation or radioactive material, the licensee must also provide the individual a report on their exposure data.

List of Subjects

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 19 and 20.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282, 2297f); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

2. Section 19.12 is revised to read as follows:

§ 19.12 Instruction to workers.

(a) All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv) shall be—

(1) Kept informed of the storage, transfer, or use of radiation and/or radioactive material;

(2) Instructed in the health protection problems associated with exposure to radiation and/or radioactive material, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

(3) Instructed in, and required to observe, to the extent within the workers control, the applicable provisions of Commission regulations and licenses for the protection of personnel from exposure to radiation and/or radioactive material;

(4) Instructed of their responsibility to report promptly to the licensee any condition which may lead to or cause a violation of Commission regulations and licenses or unnecessary exposure to radiation and/or radioactive material;

(5) Instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation and/or radioactive material; and

(6) Advised as to the radiation exposure reports which workers may request pursuant to § 19.13.

(b) In determining those individuals subject to the requirements of paragraph (a) of this section, licensees must take into consideration assigned activities during normal and abnormal situations involving exposure to radiation and/or radioactive material which can reasonably be expected to occur during the life of a licensed facility. The extent of these instructions must be commensurate with potential radiological health protection problems present in the work place.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

3. The authority citation for part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

4. In § 20.1003, the definitions of ''Member of the public'' ''Occupational dose,'' and ''Public dose'' are revised to read as follows:

§ 20.1003 Definitions.

* * * * *

Member of the public means any individual except when that individual is receiving an occupational dose.[1]

* * * * *

Occupational dose means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation and/or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or as a member of the public.

* * * * *

[1] Except as delineated in other parts of 10 CFR chapter I.

Public dose means the dose received by a member of the public from exposure to radiation and/or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. It does not include occupational dose or doses received from background radiation, as a patient from medical practices, or from voluntary participation in medical research programs.

* * * * *

5. In § 20.2104, the introductory text of paragraph (a) is revised to read as follows:

§ 20.2104 Determination of prior occupational dose.

(a) For each individual who is likely to receive in a year, an occupational dose requiring monitoring pursuant to § 20.1502 the licensee shall—

* * * * *

6. Section 20.2205 is added to read as follows:

§ 20.2205 Reports to individuals of exceeding dose limits.

When a licensee is required, pursuant to the provisions of §§ 20.2203, 20.2204, or 20.2206, to report to the Commission any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee shall also provide a copy of the report submitted to the Commission to the individual. This report must be transmitted at a time no later than the transmittal to the Commission.

Dated at Rockville, Maryland, this 30th day of June, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95–17023 Filed 7–12–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1915 and 1926

RIN 1218–AB25

Occupational Exposure to Asbestos; Corrections

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Corrections to final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is correcting the final asbestos standards published in the **Federal Register** on August 10, 1994 (59 FR 40964).

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Liblong, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219–8151.

SUPPLEMENTARY INFORMATION: On June 29, 1995, OSHA issued a corrections document, correcting and clarifying certain provisions of the final asbestos standards in general industry, construction and shipyard employment that were issued on August 10, 1994. Several typographical errors were discovered and one correction was inadvertently omitted from this document.

The standard and this correction document are issued under the authority of sections 4, 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act, 40 U.S.C. 333); section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); and 29 CFR part 1911.

Correction of Publication

The following corrections are made to the final rule for Occupational Exposure to Asbestos published in the **Federal Register** on August 10, 1994 (59 FR 40964) and corrected in the **Federal Register** on June 29, 1995 (59 FR 33974).

PART 1915—[CORRECTED]

1. On page 41080, in § 1915.1001, paragraph (b), in the definition of ''Class III asbestos work,'' line 2 from the top of the third column, the words ''may be'' are corrected to read ''is likely to be''.

2. The definition of ''Disturbance'' in paragraph (b) of § 1915.1001, on page 41080, in the third column, in the **Federal Register** document of August 10, 1994 and corrected in the **Federal Register** document of June 29, 1995 on page 33988 is further corrected by removing the first two sentences and adding a new sentence in its place to read as follows:

§ 1915.1001 Asbestos.

* * * * *

(b) * * *

Disturbance means activities that disrupt the matrix of ACM or PACM, crumble or pulverize ACM or PACM, or generate visible debris from ACM or PACM. * * *

* * * * *

PART 1926—[CORRECTED]

3. The definition of ''Class III asbestos work'' in paragraph (b) of § 1926.1101, on page 41132, in the second column, in the **Federal Register** document of August 10, 1994 and corrected in the **Federal Register** document of June 29, 1995 on page 33995 is further corrected. The words ''may be'' are corrected to read ''is likely to be''.

4. The definition of ''Disturbance'' in paragraph (b) of § 1926.1101, on page 41132, in the third column, in the **Federal Register** document of August 10, 1994 and corrected in the **Federal Register** document of June 29, 1995 on page 33996 is further corrected by removing the first two sentences and adding a new sentence in its place to read as follows:

§ 1926.1101 Asbestos.

* * * * *

(b) * * *

Disturbance means activities that disrupt the matrix of ACM or PACM, crumble or pulverize ACM or PACM, or generate visible debris from ACM or PACM. * * *

* * * * *

Signed at Washington, DC this 10th day of July, 1995.

Joseph A. Dear,

Assistant Secretary, Occupational Safety and Health Administration.

[FR Doc. 95–17194 Filed 7–12–95; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Missouri Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions and additional requirements, a proposed amendment to the Missouri regulatory program (hereinafter referred to as the ''Missouri program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Missouri proposed revisions to rules pertaining to definitions, topsoil redistribution, impoundment design, disposal of coal processing and noncoal waste, backfilling and grading, coal exploration, fish and wildlife plan, permit approval findings, notice of violations, and eligibility for small operators assistance. The amendment is intended to revise the State program to be consistent with the corresponding Federal regulations and SMCRA, clarify ambiguities, and improve operational efficiency.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

II. Proposed Amendment

By letter dated February 10, 1995 (administrative record No. MO–612), Missouri submitted a proposed amendment to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Missouri submitted the proposed amendment with the intent of satisfying the required program amendments at 30 CFR 925.16(b)(4), (p)(9), and (q)(1) through (q)(5), and at its own initiative to improve its program. The amendment also contains nonsubstantive revisions to eliminate editorial and typographical errors and to accomplish necessary recodification required by the addition or deletion of provisions. The provisions of 10 Code of State Regulations (CSR) that Missouri proposed to revise were: (1) 10 CSR 40–3.030(4) to require that contamination of topsoil be prevented during redistribution; (2) 10 CSR 40–3.040(10)(B)5 to reference the January 1991, U.S. Natural Resources Conservation Service (formerly the Soil Conservation Service) technical document, Practice Standards 378, concerning impoundment design; (3) 10 CSR 40–3.110(3)(A)1 to clarify that the requirements of this section apply to coal seams, combustible materials, and acid- and toxic-forming materials, to require that coal processing waste and noncoal waste be covered in accordance with the regulations for disposal of coal processing waste at 10 CSR 40–3.080, and to delete the existing requirement that exposed coal seams and combustible materials, including coal processing waste, be covered with a

minimum of 4 feet of nontoxic- and nonacid-producing materials; (4) 10 CSR 40–3.110(6)(B) to provide that the regulations for repair of rills and gullies at 10 CSR 40–3.110(6)(A) apply, on areas that have been previously mined, only after final grading of the area when topsoil or a topsoil substitute is not available; (5) 10 CSR 40–6.010(2)(H) to add a definition of ''Secretary;'' (6) 10 CSR 40–6.020(2)(A) and (3)(A) to clarify that these regulations concern exploration activities outside of a permit area; (7) 10 CSR 40–6.050(7) (C) and (D), and 10 CSR 40–6.120(12) (C) and (D) to specify the information that must be included in a fish and wildlife plan and that, when the plan does not include enhancement measures, it must include an explanation of why enhancement is not practicable; (8) 10 CSR 40–6.070(8)(M) to require that the Director of the Missouri program must find, prior to permit approval for a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of 10 CSR 40–4.080, that the site of the operation is a previously mined area; (9) at 10 CSR 40–8.010(1)(A)72 the definition of ''previously mined area;'' (10) at 10 CSR 40–8.010(1)(A)84 the definition of ''road;'' (11) 10 CSR 40–8.030(7)(A) to delete the requirement that modification, termination, or vacating of notice of violations must be in accordance with the regulation at 10 CSR 40–8.040; (12) 10 CSR 40–8.040(9) to delete the definition of ''habitual violator;'' and (13) 10 CSR 40–8.050(2)(B) to change the eligibility requirement of coal production of 100,000 tons per year to 300,000 tons per year for a small operator assistance applicant.

OSM announced receipt of the proposed amendment in the March 2, 1995, **Federal Register** (41 FR 11640), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. MO–618). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 3, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of Missouri's rules at 10 CSR 40–3.140(1)(A), roads and control of air pollution attendant to erosion; 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), permit application requirements for a fish and wildlife plan; and 10 CSR 40–8.050(2)(B), small operator assistance program. OSM notified Missouri of the concerns by letter dated April 10, 1995 (administrative record No. MO–627).

Missouri responded by telephone on May 9, 1995, that it would not submit revisions to the amendment and that OSM should proceed with the publishing of this final rule **Federal Register** notice (administrative record No. MO–629).

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with certain exceptions and additional requirements, that the proposed program amendment submitted by Missouri on February 10, 1995, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

1. Editorial Revisions to Missouri's Rules

Missouri proposed revisions to the following previously-approved rules that consist of minor editorial changes or corrections of referenced citations due in part to recodification (corresponding Federal regulation provisions are listed in parentheses):

10 CSR 40–3.100(5)2 (30 CFR 816.97(g)(3)), concerning distribution of plants to maximize benefit to fish and wildlife, by replacing a semicolon with a period at the end of a sentence;

10 CSR 40–3.100(6) (30 CFR 816.97(h)), concerning cropland as an alternative postmining land use, by replacing the term ''fields'' with ''reclaimed lands;''

10 CSR 40–3.100(7) (30 CFR 816.97(h)), concerning use of greenbelts for residential, public service, or industrial land uses, by deleting the ''s'' from the word ''lands;''

10 CSR 40–3.060(1)(L)1 (30 CFR 816.71(i)(1)), concerning the prohibition of placing coal processing wastes in head-of-hollow or valley fills, by correcting the citation of the reference for the requirements for the disposal of coal-processing waste in excess spoil fills at 10 CSR 40–3.080(4);

10 CSR 40–3.060(1)(O) (30 CFR 816.71(j)), concerning disposal of excess spoil, by correcting the citation of the reference to the requirements for permit application approval of the plan for return of coal processing waste to abandoned underground workings at 10 CSR 40–6.120(17);

10 CSR 40–3.080(8)(B) (30 CFR 816.89(b)), concerning the final disposal of noncoal wastes, by correcting the citation of the reference for revegetation requirements for surface coal mining operations at 10 CSR 40–3.120.

10 CSR 40–3.110(3)3 (30 CFR 816.102(f) and 816.41(a)), concerning the prohibition of disposal or storage of acid-forming or toxic-forming material in proximity to a drainage course, by adding the word ''forming'' in the phrase ''acid-forming or toxic-forming material;''

10 CSR 40–6.030(1)(C)(3) (30 CFR 778.13(c)(3)), concerning identification of interests for legal and financial permit application requirements, by correcting the citation of the reference for the permit condition that requires submittal of information after receipt of a cessation order at 10 CSR 40–6.070(13)(E);

10 CSR 40–6.030(5)(B) (30 CFR 778.17(b), concerning permit application requirements, by correcting the citation of the reference for information required for permit terms in excess of 5 years at 10 CSR 40–6.070(12)(A);

10 CSR 40–6.060(4)(D)(4) (30 CFR 785.17(d)(4)), concerning the requirement on prime farmland that the State conservationist review and comment on the proposed method of soil reconstruction, by correcting the citation of the reference for permit application requirements for a plan for soil reconstruction, replacement, and stabilization at 10 CSR 40–6.060(4)(C)(2); and

10 CSR 40–6.070(9)(A)1, 6.070(9)(A)2.A, and 6.070(9)(A)2.B (30 CFR 773.15(c)(6) and 701.11(d)), concerning criteria for permit approval or denial for existing structures, by correcting the citation of the reference for exemptions for existing structures at 10 CSR 40–8.070(2)(D) (1)(A), (1)(B) and (1)(C);

The Director finds that the proposed revisions to these previously-approved rules, which are editorial in nature, do not make these proposed Missouri rules less effective than the Federal regulations. The Director approves the revisions proposed to these rules.

2. Substantive Revisions to Missouri's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Missouri proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses).

10 CSR 40–6.010(2)(H) (30 CFR 700.5), concerning the definition of ''Secretary;''

10 CSR 40–6.070(8)(M) (30 CFR 773.15(c)(12)), concerning criteria for permit approval or denial for remining operations; and

10 CSR 40–8.010(1)(A)84 (30 CFR 701.5), concerning the definition of ''road''

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

3. Proposed Revisions to Missouri's Rules Made in Response to Required Amendments

a. 10 CSR 40–3.110(3)1, Performance Standards for Backfilling and Grading of Acid- and Toxic-Forming Materials

OSM required at 30 CFR 925.16(q)(1) that Missouri amend 10 CSR 40–3.110(3)1 by (1) requiring that exposed coal seams and combustible materials be

adequately covered or treated as required at 30 CFR 816.102(f) and (2) explaining why these two groups of materials, i.e., acid- and toxic-forming materials and exposed coal seams and combustible materials, are treated differently and clarify what is required to be demonstrated if less than 4 feet of cover is proposed (Finding No. 7, 58 FR 64142, 64144, December 6, 1993).

Missouri proposed to revise 10 CSR 40–3.110(3)1 to require that exposed coal seams, acid-forming and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be adequately covered with nontoxic and noncombustible material or treated to control the impact on surface and ground water in accordance with 10 CSR 40–3.040, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use. Missouri proposed to delete from 10 CSR 40–3.110(3)1 the allowance for an exception to a 4 foot cover requirement for exposed coal seams and materials, and combustible materials. Missouri also proposed to add at 10 CSR 40–3.110(3)1 a reference to its rules for covering coal processing waste and noncoal waste at 10 CSR 40–3.080.

Proposed 10 CSR 40–3.110(3)1 is substantively identical to the Federal regulation at 30 CFR 816.102(f) with the exception of the reference to Missouri's rules for covering coal processing waste and noncoal waste at 10 CSR 40–3.080. This reference does not affect the requirements in proposed 10 CSR 40–3.110(3)1 concerning exposed coal seams, acid-forming and toxic forming materials, and combustible materials.

The Director finds that proposed 10 CSR 40–3.110(3)1 is not less effective than the Federal regulation at 30 CFR 816.102(f), and satisfies the program amendment requirement at 30 CFR 925.16(q)(1). The Director approves proposed 10 CSR 40–3.110(3)1 and removes the required amendment at 30 CFR 925.16(q)(1).

b. 10 CSR 40–3.110(6)(B), Stabilization of Rills and Gullies After Backfilling and Grading

OSM required at 30 CFR 925.16(q)(2) that Missouri revise 10 CSR 40–3.110(6)(B) to require for previously mined areas, that an operator identify the best suited material available for topsoil replacement and segregate that material for later use as a topsoil substitute (Finding No. 9, 58 FR 64142, 64144, December 6, 1993).

Missouri proposed to revise 10 CSR 40–3.110(6)(B) to require, on areas that have been previously mined where topsoil or a topsoil substitute are not available, stabilization of rills and gullies pursuant to subsection (6)(A) after final grading. Missouri's rule at 10 CSR 40–3.110(6)(A) requires stabilization of rills and gullies deeper than 9 inches on areas that have been regraded and topsoiled. Although Missouri proposed to delete at 10 CSR 40–3.110(6)(B) the provision that the area need not be topsoiled, Missouri's revised 10 CSR 40–3.110(6)(B) continues to require topsoil or a topsoil substitute *if available* on reclaimed areas that have been previously mined (emphasis added).

The counterpart Federal regulations at 30 CFR 816.106, concerning previously mined areas, require that these areas comply with the requirements of 30 CFR 816.102 through 816.107. The Federal regulations at 30 CFR 816.102(d)(2) requires topsoil removal, storage, and redistribution in accordance with 30 CFR 816.22. The Federal regulations at 30 CFR 816.22 require, among other things, the removal of the topsoil, material approved as a topsoil substitute, or the topsoil and the unconsolidated materials immediately below the topsoil. There is no Federal provision for an exception to the identification of topsoil or topsoil substitutes on areas that have been previously mined.

Therefore, the Director finds that proposed 10 CSR 40–3.110(6)(B) remains less effective than the Federal regulations at 30 CFR 816.102 and 816.22 and does not satisfy the program amendment requirement at 30 CFR 925.16(q)(2). The Director approves the revisions proposed at 10 CSR 40–3.110(6)(B), and revises the required amendment at 30 CFR 925.16(q)(2) to require that Missouri further revise 10 CSR 40–3.110(6)(B) to clearly require, for areas that have been previously mined, either topsoil or a topsoil substitute, in accordance with its rules at 10 CSR 40–3.030.

c. 10 CSR 40–3.140(1)(A), Control or Prevention of Air Pollution Attendant to Erosion at Surface Mining Operations

OSM required at 30 CFR 925.16(p)(9) that Missouri amend its program at 10 CSR 3.140(1)(A) by requiring that all exposed surfaces be stabilized in accordance with current prudent engineering practices (Finding No. 32, 57 FR 44660, 44669, September 29, 1992).

Missouri proposed to revise 10 CSR 40–3.140(1)(A), concerning the control or prevention of air pollution attendant to erosion at surface mining operations, to remove the word ''road'' from the phrase ''other exposed road surfaces.'' However, Missouri proposed to remove the word ''road'' only from the list of possible measures by which to control or prevent air pollution. The word ''road'' still exists in the portion of proposed 10 CSR 40–3.140(1)(A) that requires control or prevention of air pollution attendant to erosion, including dust occurring ''on other exposed *road* surfaces'' (emphasis added).

The Federal regulations at 30 CFR 816.150(b)(1) require that each road shall be located, designed, constructed, reconstructed, used, maintained, and reclaimed so as to control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices. To fully satisfy the required amendment, Missouri must further revise proposed 10 CSR 40–3.140(1)(A) to delete the first occurrence of the word ''road'' in the phrase ''other exposed road surfaces.''

Therefore, the Director finds that (1) proposed 10 CSR 40–3.140(1)(A) remains less effective than the Federal regulations at 30 CFR 816.150(b)(1) and (2) Missouri has not satisfied the program amendment requirement at 30 CFR 925.16(p)(9). The Director approves the revisions proposed at 10 CSR 40–3.140(1)(A), but does not remove the required amendment at 30 CFR 925.16(p)(9).

d. 10 CSR 40–6.050(7)(C), 40–6.050(7)(D), 40–6.120(12)(C), and 40–6.120(12)(D), Surface and Underground Coal Mining and Reclamation Operations Permit Application Requirements for Protection of Fish and Wildlife

OSM required at 30 CFR 925.16(b)(4) that Missouri amend its program to indicate that the informational requirements of the rules, concerning a description of protective measures that will be used during the active mining phase of operations, must be included in the fish and wildlife plan; require a description of the enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat; and require the fish and wildlife protection and enhancement plan requirements also apply to species or habitats protected by State laws similar to the Endangered Species Act of 1973 and to threatened or endangered species or plants or animals proposed as well as listed

under the Endangered Species Act of 1973 or similar State statutes (Finding No. 5, 55 FR 22907, 22910, June 5, 1990).

Missouri has proposed revisions at 10 CSR 40–6.050(7)(C), 40–6.050(7)(D), 40–6.120(12)(C), and 40–6.120(12)(D), that, as discussed below, satisfy the program amendment requirement at 30 CFR 925.16(b)(4). Therefore, the Director removes the required amendment at 30 CFR 925.16(b)(4).

i. 10 CSR 40–6.050(7)(C) and 40–6.120(12)(C), Informational requirements for a fish and wildlife plan. Missouri proposed to revise 10 CSR 40–6.050(7)(C) and 6.120(12)(C), concerning surface and underground coal mining and reclamation operations permit application requirements, to require that the statement explaining how the applicant will utilize impact control measures, management techniques, and monitoring methods to protect or enhance fish and wildlife ''must be included in the fish and wildlife plan.'' These proposed revisions of 10 CSR 40–6.050(7)(C) and 6.120(12)(C)(1) are no less effective than the Federal regulations at 30 CFR 780.16(b) and 784.21(b) and (2) satisfy the requirement at 30 CFR 925.16(b)(4) concerning the informational requirements that must be included in a fish and wildlife plan. The Director approves the revisions proposed at 10 CSR 40–6.050(7)(C) and 6.120(12)(C).

ii. 10 CSR 40–6.050(7)(D) and 40–6.120(12)(D), Minimum contents of a fish and wildlife plan. Missouri proposed addition of new rules at 10 CSR 40–6.050(7)(D) and 40–6.120(12)(D), concerning surface and underground coal mining and reclamation operations permit application requirements, that specify the minimum contents of a fish and wildlife plan. With one exception, proposed 10 CSR 40–6.050(7)(D) and 6.120(12)(D) are substantively identical to the counterpart Federal regulations at 30 CFR 780.16(b) and 784.21(b) and satisfy the program amendment requirement at 30 CFR 925.16(b)(4).

The exception concerns Missouri's requirement, proposed at 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), that the description of how, to the extent possible using the best technology currently available, the operator will minimize disturbances and adverse impacts on fish and wildlife and related environmental values during surface coal mining and reclamation operations and how enhancement of these resources will be achieved where practicable ''shall be consistent with this section.'' The counterpart Federal regulations at 30 CFR 780.16(b)(1) and 784.21(b)(1) require that this description be consistent with the requirements of the performance standards at 30 CFR 816.97 and 817.97. Missouri's corresponding performance standards for the protection of fish, wildlife, and related environmental values are at 10 CSR 40–3.100 and 10 CSR 40–3.250.

Therefore, the Director finds, with the exception of proposed 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), proposed 10 CSR 40–6.050(7)(D) and 40–6.120(12)(D) are no less effective than the Federal regulations at 30 CFR 780.16(b) and 784.21(b). With the exception of proposed 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), the Director approves proposed 10 CSR 40–6.050(7)(D) and 40–6.120(12)(D). The Director is adding a new required amendment stating that Missouri must revise proposed 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1) to require that the description in the fish and wildlife plan must be consistent with, respectively, its performance standards for protection of fish, wildlife, and related environmental values at 10 CSR 40–3.100 and 10 CSR 40–3.250.

e. 10 CSR 40–8.010(1)(A)72, Definition of ''Previously Mined Area''

OSM required at 30 CFR 925.16(q)(3) that Missouri amend 10 CSR 40–8.010(1)(A) by furnishing a definition for ''previously mined area'' (Finding No. 17.b, 58 FR 64142, 64147, December 6, 1993).

Missouri proposed revising 10 CSR 40–8.010(1)(A) by adding a definition of ''previously mined area'' at 10 CSR 40–8.010(1)(A)72 which is substantively identical to the Federal definition of ''previously mined area'' at 30 CFR 701.5.

The Director finds that proposed 10 CSR 40–8.010(1)(A)72 is no less effective than the Federal definition of ''previously mined area'' at 30 CFR 701.5 and satisfies the program amendment requirement at 30 CFR 925.16(q)(3). The Director approves proposed 10 CSR 40–8.010(1)(A)72 and removes the required amendment at 30 CFR 925.16(q)(3).

f. 10 CSR 40–8.030(7), Extension of an Abatement Period for a Notice of Violation (NOV)

OSM required at 30 CFR 925.16(q)(4) that Missouri amend 10 CSR 40.8.030(7)(A) by removing the phrase ''in accordance with 10 CSR 40–8.040'' or by providing the proper citation to the State rule that addresses extension of time for abatement of NOVs (Finding No. 18, 58 FR 64142, 64148, December 6, 1993).

Missouri proposed to revise 10 CSR 40–8.030(7)(A), concerning the allowance to extend an abatement period for a notice of violation, by deleting the phrase '' in accordance with 10 CSR 40–8.040,'' a reference to its rules concerning penalty assessments.

The Director finds that proposed 10 CSR 40–8.030(7)(A) is no less effective than the Federal regulations at 30 CFR 843.12(c) and satisfies the program amendment requirement at 30 CFR 925.16(q)(4). The Director approves proposed 10 CSR 40–8.030(7)(A) and removes the required amendment at 30 CFR 925.16(q)(4).

g. 10 CSR 40–8.040, Penalty Assessments

OSM required at 30 CFR 925.16(q)(5) that Missouri amend 10 CSR 40–8.040 by removing its rules concerning habitual violators at 10 CSR 40–8.040(9) (Finding No. 20, 58 FR 64142, 64148, December 6, 1993).

Missouri proposed to revise 10 CSR 40–8.040, concerning penalty assessments, by deleting 10 CSR 40–8.040(9) and recodifying existing 10 CSR 40–8.040(10) and (11) as 10 CSR 40–8.040(9) and (10). Deleted 10 CSR 40–8.040(9) included a definition of ''habitual violator'' and requirements regarding civil penalties for habitual violators.

The Director finds that Missouri's proposed deletion of 10 CSR 40–8.040(9) is consistent with the Federal regulations at 30 CFR 843 and 845 and satisfies the program amendment requirement at 30 CFR 925.16(q)(5). The Director approves the proposed deletion of 10 CSR 40–8.040(9) and removes the required amendment at 30 CFR 925.16(q)(5).

4. 10 CSR 40–3.030(4)(B)2, Prevention of Contamination of the Topsoil During Redistribution

Missouri proposed to revise 10 CSR 40–3.030(4)(B)2 to require prevention of contamination of topsoil during its redistribution. Missouri stated that this provision was revised to be consistent with section 444.855.2(5) of the Revised Statutes of Missouri (RSMo).

The counterpart Federal regulation at 30 CFR 816.22(d)(ii), concerning redistribution of topsoil, has no such requirement. However, section 444.855.2(5) of RSMo is identical to section 515(b)(5) of SMCRA. Both section 444.855.2(5) of RSMo and section 515(b)(5) of SMCRA require, with respect to stockpiled or stored topsoil, that the topsoil remain free of any contamination by other acid or toxic material.

The requirement to prevent contamination of topsoil during its redistribution proposed at 10 CSR 40–3.030(4)(B)2 is consistent with and no less stringent than section 515(b)(5) of SMCRA and no less effective than the Federal regulations at 30 CFR 816.22 regarding topsoil storage and redistribution. Therefore, the Director approves proposed 10 CSR 40–3.030(4)(B)2.

5. 10 CSR 40–3.040(10)(B)5, Performance Standards for Impoundments

Missouri proposed to revise, at 10 CSR 40–3.040(10)(B)5, the requirements concerning design, construction, and maintenance of impoundments that protect the hydrologic balance during surface coal mining operations. Specifically, Missouri proposed to revise the date of the referenced U.S. Natural Resources Conservation Service (NRCS, formerly the Soil Conservation Service) ''Practice Standards 378, Ponds'' from October 1978 to January 1991. This referenced document contains the design and construction requirements for permanent impoundments that do not meet the size or other criteria of 30 CFR 77.216(a) approved in a surface mining operation permit.

Missouri's proposed 10 CSR 40–3.040(10)(B)5 is no less effective than the design and construction requirements in the Federal regulations at 30 CFR 816.49(a) for impoundments that do not meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA) at 30 CFR 77.216(a).

However, the Federal regulations at 30 CFR 780.25 and 784.16 were revised to require that all impoundments meeting the Class B or C criteria of the U.S. Department of Agriculture, NRCS Technical Release No. 60 (210–VI–TR60, Oct. 1985), Earth Dams and Reservoirs, comply with the requirements of the Federal regulations for structures that meet or exceed the size or other criteria of MSHA. And the Federal regulations at 30 CFR 816.49 and 817.49 were revised to require that any impoundment meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, NRCS Technical Release No. 60 (210–VI–TR60, Oct. 1985), Earth Dams and Reservoirs, comply with ''Minimum Emergency Spillway Hydrologic Criteria'' table in TR–60 as well as the requirements of 30 CFR 816.49 and 817.49 (59 FR 53022, October 20, 1994).

OSM will evaluate all State programs to ascertain the need for revision to be no less effective than the revised Federal regulations at 30 CFR 780.25, 784.16, 816.49, and 817.49. At that time, OSM will notify Missouri, in accordance with the Federal regulations at 30 CFR 732, of the need to revise its regulations at 10 CSR 40–6.040(11), 6.120(7), 3.040(10), and 3.200(10) to include the hazard classification criteria for impoundments.

At this time, based on the above discussion, the Director finds that proposed 10 CSR 40–3.040(10)(B)5 is no less effective than the Federal regulations at 30 CFR 816.49(a) with regard to impoundments that (1) do not meet the NRCS class B or C hazard classification criteria and (2) do not meet or exceed the size of other criteria of 30 CFR 77.216(a). The Director approves proposed 10 CSR 40–3.040(10)(B)5 to the extent that its requirements apply only to impoundments that (1) do not meet the NRCS class B or C hazard classification criteria and (2) do not meet or exceed the size or other criteria of MSHA at 30 CFR 77.216(a). The Director does not approve proposed 10 CSR 40–3.040(10)(B)5 to the extent that it does not exclude permanent impoundments that meet the NRCS class B or C hazard classification criteria from the design and construction requirements in the NRCS ''Practice Standards 378, Ponds,'' dated January 1991.

6. 10 CSR 40–6.020(2)(A) and 40–6.020(3)(A), Requirements for Coal Exploration

Missouri proposed revisions at 10 CSR 40–6.020(2)(A) and 10 CSR 40–6.020(3)(A), concerning applications and permits for coal exploration during which, respectively, less than and more than 250 tons of coal will be removed. Specifically, Missouri proposed to delete the phrase ''outside a permit area'' with regard to the location of a proposed coal exploration operation. The effect of Missouri's proposed revisions is to require exploration applications or permits regardless of where the exploration operation occurs. Missouri stated in its proposed amendment that these revisions were proposed in order to remove confusing language and clarify the requirements for obtaining coal exploration permits.

The counterpart Federal regulations at 30 CFR 772.11 and 772.12 include the phrase ''outside a permit area'' with regard to the location of coal exploration operations that must obtain approved applications or permits. These Federal regulations exclude coal exploration operations from the requirements of 30 CFR 772.11 and 772.12 if the exploration operations occur within the boundaries of an existing surface coal mining and reclamation operation permit.

Missouri's proposed 10 CSR 40–6.020(2)(A) and 10 CSR 40–6.020(3)(A) are more inclusive of the requirement to obtain exploration applications and permits than are the counterpart Federal regulations. Therefore, the Director finds that proposed 10 CSR 40–6.020(2)(A) and 10 CSR 40–6.020(3)(A) are no less effective than the Federal regulations at 30 CFR 772.11 and 772.12 and approves the proposed rules.

7. 10 CSR 40–8.050(2)(B), Small Operator Assistance Program

Missouri proposed to revise 10 CSR 40–8.050(2)(B) to increase, from 100,000 tons to 300,000 tons, the amount of coal an operator can mine and be considered eligible for small operator assistance.

The Abandoned Mine Reclamation Act of 1990 (AMRA), as amended, was reauthorized on November 5, 1990, when the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508 was enacted. Included in AMRA was new legislation that raised the annual coal production limit from 100,000 to 300,000 tons for eligibility under SOAP authorized at section 507(c) of SMCRA.

Therefore, the Director finds that Missouri's proposed revision of 10 CSR 40–8.050(2)(B) is consistent with and no less stringent than section 507(c) of SMCRA as amended by AMRA. The Director approves the proposed rule.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Missouri program.

The Natural Resources Conservation Service responded on March 3, 1995, that it had no comments concerning the proposed amendments (administrative record No. MO–616).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to

those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Missouri proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. MO–614. It did not respond to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and additional requirements, Missouri's proposed amendment as submitted on February 10, 1995.

The Director does not approve, as discussed in Finding No. 5, 10 CSR 40–3.040(10)(B)5, to the extent it does not exclude permanent impoundments that meet the NRCS class B or C hazard classification criteria from the design and construction requirements in the NRCS ''Practice Standards 378, Ponds,'' dated January 1991.

With the requirement that Missouri further revise its rules, the Director does not approve, as discussed in Finding No. 3.d.ii, 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), concerning the fish and wildlife plan.

With the requirement that Missouri further revise its rules, the Director approves, as discussed in: Finding No. 3.b, 10 CSR 40–3.110(6)(B), Finding No. 3.c, 10 CSR 40–3.140(1)(A), concerning the control or prevention of air pollution attendant to erosion at surface mining operations; and Finding No. 3.d.ii, 10 CSR 40–6.050(7)(D) and 40–6.120(12)(D), concerning the fish and wildlife plan.

The Director approves, as discussed in: Finding No. 1, 10 CSR 40–3.100(5)2, (6), and (7), 40–3.060(1)(L)1 and (O), 40–3.080(8)(B), 40–3.110(3)3, 40–6.030(1)(C) and (5)(B), 40–6.060(4)(D)(4), 40–6.070(9)(A)1 and 40–6.070(9)(A)2.A and 2.B, concerning minor editorial revisions or corrections of referenced citations; Finding No. 2, 10 CSR 40–6.010(2)(H), 40–6.070(8)(M), and 40–8.010(1)(A)84, concerning substantive revisions that are substantively identical to the corresponding Federal regulations; Finding Nos. 3.a, 3.d.i, 3.e, 3.f, and 3.g, 10 CSR 40–3.110(3)1, 40–6.050(7)(C) and 40–6.120(7)(C), 40–8.010(1)(A)72, 40–8.030(7)(A), and 40–8.040(9), concerning responses to required amendments; Finding No. 4, 10 CSR 40–3.030(4)(B)2, concerning topsoil; Finding No. 5, 10 CSR 40–3.040(10)(B)5, concerning design and construction of impoundments, to the extent that its requirements apply only to impoundments that (1) do not meet the NRCS class B or C hazard classification criteria and (2) do not meet or exceed the size or other criteria of MSHA at 30 CFR 77.216(a); Finding No. 6, 10 CSR 40–6.020(2)(A) and (3)(A), concerning coal exploration; and Finding No. 7, 10 CSR 40–8.050(2)(B), concerning small operator's assistance.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 925.16 that, within 60 days of the publication of this final rule, Missouri must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Missouri's established administrative or legislative procedures.

The Director approves the rules as proposed by Missouri with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 925, codifying decisions concerning the Missouri program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

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

VI. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and 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 not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. *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 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 6, 1995.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 925—MISSOURI

1. The authority citation for Part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 925.15 is amended by adding paragraph (s) to read as follows:

§ 925.15 Approval of amendments to the Missouri regulatory program.

* * * * *

(s) With the exception of 10 CSR 40–3.040(10)(B)5, to the extent it does not exclude permanent impoundments that meet the NRCS class B or C hazard classification criteria from the design and construction requirements in the NRCS ''Practice Standards 378, Ponds,'' dated January 1991; and 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), concerning the requirement that a fish and wildlife plan in applications for surface and underground mining operations be consistent with the performance standards for protection of fish, wildlife, and related environmental values at 10 CSR 40–3.100 and 10 CSR 40–3.250, revisions to the following rules, as submitted to OSM on February 10, 1995, are approved effective July 13, 1995:

10 CSR 40–3.030(4)(B)2, performance standards concerning topsoil redistribution;

10 CSR 40–3.040(10)(B)5, performance standards concerning design and construction of certain impoundments;

10 CSR 40–3.060(1)(L)1 and (0), performance standards concerning the disposal of coal processing wastes and excess spoil;

10 CSR 40–3.080(8)(B), performance standards concerning the final disposal of noncoal wastes;

10 CSR 40–3.100(5)2, (6), and (7), performance standards concerning protection of fish and wildlife;

10 CSR 40–3.110(3)1, (3)3, and (6)(B) performance standards concerning disposal or storage of acid-forming or toxic-forming material;

10 CSR 40–3.140(1)(A), performance standards concerning the control or prevention of air pollution attendant to erosion at surface mining operations;

10 CSR 40–6.010(2)(H), concerning the definition of ''Secretary;''

10 CSR 40–6.020(2)(A) and (3)(A), concerning coal exploration;

10 CSR 40–6.030(1)(C) and (5)(B), and 6.050(7)(C) and (7)(D), concerning permit application requirements for surface mining operations;

10 CSR 40–6.060(4)(D)(4), concerning permit application requirements for operations involving prime farmland;

10 CSR 40–6.070(8)(M), (9)(A)1, and (9)(A)2.A and 2.B, concerning criteria for permit approval or denial for remining operations and existing structures;

10 CSR 40–6.120(7)(C) and (12)(D), concerning permit application requirements for underground mining operations;

10 CSR 40–8.010(1)(A)72 and 84, concerning the definitions for ''previously mined area'' and ''road;''

10 CSR 40–8.030(7)(A), concerning the extension of an abatement period for a notice of violation;

10 CSR 40–8.040(9), concerning the deletion of a definition for ''habitual violator'' and requirements regarding civil penalties for habitual violators; and

10 CSR 40–8.050(2)(B), concerning small operator's assistance.

3. Section 925.16 is amended by removing and reserving paragraphs (b)(4), (q)(1), and (q)(3) through (q)(5); revising paragraph (q)(2); and adding paragraph (u) to read as follows:

§ 925.16 Required program amendments.

* * * * *

(q)(2) By September 11, 1995, Missouri shall revise 10 CSR 40–3.110(6)(B) or otherwise modify its program, to clearly require, for areas that have been previously mined, either topsoil or a topsoil substitute, in accordance with its rules at 10 CSR 40–3.030.

* * * * *

(u) By September 11, 1995, Missouri shall revise 10 CSR 40–6.050(7)(D)(1) and 40–6.120(12)(D)(1), or otherwise modify its program, to require that the description in the fish and wildlife plan must be consistent with, respectively, its performance standards for protection of fish, wildlife, and related environmental values at 10 CSR 40–3.100 and 10 CSR 40–3.250.

[FR Doc. 95–17167 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is adopting an exemption for the system of records identified as DGC 16, entitled Political Appointment Vetting Files. DGC 16 was previously published on March 15, 1995, at 60 FR 14273. The DoD General Counsel performs suitability screening of individuals seeking, or who have been recommended for, non-career positions within the DoD.

EFFECTIVE DATE: May 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this proposed Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

The DoD General Counsel performs suitability screening of individuals seeking, or who have been recommended for, non-career positions within the DoD. Confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. During the screening process, investigatory material is compiled for the purpose of determining the suitability of candidates for Schedule 'C' positions, taking character, security and other personal suitability factors into account. This exemption is limited to disclosures that would reveal the identity of a confidential source.

List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 311.7, paragraphs (c)(1) is added as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) *Specific exemptions.* * * *

(1) *System identifier and name*--DGC 16, Political Appointment Vetting Files.

Exemption. Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections (d)(1) through (d)(5).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. From (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source.

* * * * *

Dated: June 20, 1995.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–17109 Filed 07–12–95; 8:45 am]

BILLING CODE 5000–04–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH73–2–7033, OH74–2–7034, OH75–2–7035; FRL–5257–3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving, in final, requests for exemptions from the nitrogen oxides (NO_X) requirements as provided for in Section 182(f) of the Clean Air Act (Act) for the following ozone nonattainment areas in Ohio: Canton (Stark County); Cincinnati (Butler, Clermont, Hamilton and Warren Counties); Cleveland (Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit Counties); Columbus (Delaware, Franklin, and Licking Counties); Youngstown (Mahoning and Trumbull Counties); Steubenville (Columbiana and Jefferson Counties); Preble County; and Clinton County. These exemption requests, submitted by the Ohio Environmental Protection Agency (OEPA), are based upon three years of ambient air monitoring data which demonstrate that the National Ambient Air Quality Standard (NAAQS) for ozone has been attained in each of these areas without additional reductions of NO_X.

EFFECTIVE DATE: This action will be effective August 14, 1995.

ADDRESSES: A copy of the exemption requests are available for inspection at the following location (it is recommended that you contact Richard Schleyer at (312) 353–5089 before visiting the Region 5 office): United States Environmental Protection Agency, Region 5, Air Enforcement Branch, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Richard Schleyer, Regulation Development Section, Air Enforcement Branch (AE–17J), Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353–5089.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(f) Requirements

The air quality planning requirements for the reduction of NO_X emissions are set out in Section 182(f) of the Act. Section 182(f) of the Act requires States with areas designated nonattainment of the NAAQS for ozone, and classified as marginal and above, to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of volatile organic compounds (VOC). The requirements include, for marginal and above areas, nonattainment area new source review (NSR) for major new sources and modifications that are major for NO_X. For nonattainment areas classified as moderate and above, the State is also required to adopt reasonably available control technology (RACT) rules for major stationary sources of NO_X.

Section 182(f) further provides that, for areas outside an ozone transport region (OTR), these NO_X reduction requirements shall not apply if the Administrator determines that additional reductions of NO_X would not contribute to attainment of the NAAQS for ozone.

Transportation Conformity

The transportation conformity rule, entitled ''Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act,'' was published in the November 24, 1993 **Federal Register** (58 FR 62188). The rule was promulgated under Section 176(c)(4) of the Act.

The transportation conformity rule requires regional emissions analysis of motor vehicle NO_X emissions for ozone nonattainment and maintenance areas in order to determine the conformity of transportation plans and programs to implementation plan requirements. This analysis must demonstrate that the NO_X emissions which would result from the transportation system if the proposed transportation plan and program were implemented are within the total allowable level of NO_X emissions from highway and transit motor vehicles as identified in a submitted or approved maintenance plan, as specified in the transportation conformity rule.

Until a maintenance plan is approved by USEPA, the regional emissions analysis of the transportation system must also satisfy the ''build/no-build'' test. That is, the analysis must demonstrate that emissions from the transportation system, if the proposed transportation plan and program were implemented, would be less than the emissions from the transportation system if the proposed transportation plan and program were not implemented. Furthermore, the regional emissions analysis must show that

emissions from the transportation system, if the transportation plan or program were implemented, would be lower than 1990 levels.

General Conformity

The general conformity rule, entitled ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans,'' was published in the **Federal Register** on November 30, 1993 (58 FR 63214). The rule was promulgated under Section 176(c)(4) of the Act.

Scope of Exemptions

If the USEPA Administrator determines, under Section 182(f) of the Act, that additional reductions of NO_X would not contribute to attainment of the ozone NAAQS, the area at issue shall automatically (i.e., a State would not need to submit an exemption request for each requirement) be exempt from the following requirements (as applicable): The NO_X-related general and transportation conformity provisions, NO_X RACT, and nonattainment area NSR for new sources and modifications that are major for NO_X. Additionally, NO_X emission reductions would not be required of an enhanced inspection and maintenance (I/M) program.

II. Criteria for Evaluation of Exemption Requests

The criteria used in the evaluation of the exemption requests can be found in the following: a notice published in the June 17, 1994 **Federal Register** (59 FR 31238), entitled ''Conformity: General Preamble for Exemption from Nitrogen Oxides Provisions,''; a USEPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), dated May 27, 1994, entitled ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria,''; a USEPA memorandum from G. T. Helms, Group Leader, Ozone/Carbon Monoxide Programs Branch, OAQPS, dated January 12, 1995, entitled ''Scope of Nitrogen Oxides (NO_X) Exemptions,''; a USEPA memorandum from John S. Seitz, Director, OAQPS, dated February 8, 1995, entitled ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria,''; and a USEPA guidance document entitled ''Guideline for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f),'' dated December 1993, OAQPS, Air Quality Management Division.

III. State Submittals

Marginal and Nonclassifiable Ozone Nonattainment Areas

In a letter dated March 18, 1994, the OEPA submitted a request that the following marginal and nonclassifiable ozone nonattainment areas be exempt from the NO_X-related transportation and general conformity requirements contained in Section 176(c) of the Act: Canton (Stark County), Columbus (Delaware, Franklin and Licking Counties), Youngstown (Mahoning and Trumbull Counties), Steubenville (Columbiana and Jefferson Counties), Preble County, and Clinton County. Additionally, USEPA is granting exemptions from the nonattainment area NSR requirements for new sources and modifications that are major for NO_X, for the following marginal ozone nonattainment areas: Canton (Stark County), Columbus (Delaware, Franklin and Licking Counties), and Youngstown (Mahoning and Trumbull Counties). The NSR requirements do not apply to the Steubenville area, Preble County, or Clinton County.

This exemption request is based upon three years (1991–1993) of ambient air monitoring data which demonstrate that the NAAQS for ozone has been attained in each of these areas without additional reductions of NO_X emissions.

Cincinnati-Hamilton Interstate Moderate Ozone Nonattainment Area

In a letter dated November 15, 1994, the OEPA submitted a request for an exemption from the NO_X requirements contained in Section 182(f) of the Act for the Ohio portion of the Cincinnati-Hamilton interstate moderate ozone nonattainment area (which includes the Counties of Butler, Clermont, Hamilton and Warren). This exemption request is based upon the most recent three years (1992–1994) of ambient air monitoring data which demonstrate that the NAAQS for ozone has been attained in the Ohio portion of the interstate area without additional reductions of NO_X emissions.

An exemption request from the requirements contained in Section 182(f) of the Act has also been submitted to USEPA—Region 4 by the Kentucky Department for Environmental Protection (KDEP) for the Kentucky portion of the interstate area (which includes the counties of Boone, Kenton, and Campbell). This exemption request is also based upon ambient air monitoring for ozone which demonstrate that the NAAQS for ozone has been attained in this area without additional reductions of NO_X. This exemption request will be evaluated in a separate rulemaking (to be performed by USEPA—Region 4).

Cleveland Moderate Ozone Nonattainment Area

In a letter dated November 1, 1994, the OEPA submitted a request for an exemption from the requirements contained in Section 182(f) of the Act for the Cleveland moderate ozone nonattainment area (which includes the Counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit). This exemption request is based upon the most recent three years (1992–1994) of ambient air monitoring data which demonstrate that the NAAQS for ozone has been attained in this area without additional reductions of NO_X.

IV. Analysis of State Submittals

The USEPA has reviewed the ambient air monitoring data for ozone (consistent with the requirements contained in 40 CFR Part 58 and recorded in USEPA's—Aerometric Information Retrieval System—AIRS) submitted by the OEPA in support of these exemption requests.

For ozone, an area is considered in attainment of the NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9, based on quality assured monitoring data from three complete consecutive calendar years. A violation of the ozone NAAQS occurs when the annual average number of expected exceedances is greater than 1.0 at any site in the area at issue. An exceedance occurs when the daily maximum hourly ozone concentration exceeds 0.124 parts per million (ppm).

Marginal and Nonclassifiable Ozone Nonattainment Areas

The following ozone exceedances were recorded for the period from 1991 to 1993 (the average number of expected exceedances for this three year period are also presented):

Canton: Stark County, 6318 Heminger Ave. (1991)—0.130 ppm; average expected exceedances: 0.3.

Columbus: Franklin County, 5750 Maple Canyon (1991)—0.131 ppm; average expected exceedances: 0.3.

Steubenville: no exceedances recorded;

Youngstown: Mahoning County, 9 West Front Street (1991)—0.143 ppm; average expected exceedances: 0.3. Trumbull County, Community Hall (1993)—0.127 ppm; average expected exceedances: 0.3.

Preble County: National Trials (1991)—0.129 ppm; average expected exceedances: 0.3.

Clinton County: 62 Laurel Drive (1993)—0.125 ppm; average expected

exceedances: 0.5 (based only on two years of monitoring data).

Cincinnati and Cleveland Ozone Nonattainment Areas

The following ozone exceedances were recorded for the period from 1992 to 1994 (the average number of expected exceedances for this three year period are also presented):

Cleveland: Medina County, 6364 Deerview (1994)—0.127 ppm; average expected exceedances: 0.5 (based only on two years of monitoring data). Cuyahoga County, 891 E. 125 St. (1993)—0.126 ppm, (1994) 0.127 ppm and 0.125 ppm; average expected exceedances: 1.0.

Cincinnati: Butler County, Schuler and Bend (1993)—0.131 ppm; average expected exceedances: 0.3. Hook Field Municipal (1993)—0.138 ppm; average expected exceedances: 0.3. Clermont County, 389 Main St. (1994)—0.128 ppm; average expected exceedances: 0.3. Warren County, Southeast St. (1994)—0.139 ppm and 0.128 ppm; average expected exceedances: 0.7.

Thus, for all of the areas at issue, the annual average number of expected exceedances were not greater than 1.0, and thus, the areas are currently meeting the NAAQS for ozone.

V. Exemptions from the Conformity Provisions

Background

With respect to conformity, USEPA's conformity rules [1,2] currently provide a NO_X waiver from certain requirements if an area receives a Section 182(f) exemption. Under the transportation conformity rule, a NO_X waiver relieves an area of the requirement to meet the ''build/no build'' and ''less-than-1990-baseline'' tests which apply during the period before State Implementation Plans (SIP) with emissions budgets are approved. In a notice published in the June 17, 1994 **Federal Register** (59 FR 31238, 31241), entitled ''Conformity; General Preamble for Exemption From Nitrogen Oxides Provisions,'' USEPA acknowledged that the rule should also have provided that, in order to conform, nonattainment and maintenance areas must demonstrate that the transportation plan and transportation improvement program (TIP) are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view is not reflected in the current published transportation conformity rules. The USEPA is in the process of amending the conformity rule so as to remedy the problem.

Approval Under Section 182(b)

An issue concerning the appropriate Act authority for granting transportation-related NO_X waivers has been raised by several commenters. NO_X exemptions are provided for in two separate parts of the Act, Section 182(b)(1) and Section 182(f). These commenters argue that exemptions from the NO_X transportation conformity requirements must follow the process provided in Section 182(b)(1), since this is the only Section explicitly referenced by Section 176(c)(3)(A)(iii) in the Act's transportation conformity provisions.

With certain exceptions, USEPA agrees that Section 182(b)(1) is the appropriate authority under the Act for waiving the transportation conformity rule's NO_X ''build/no build'' and ''less-than-1990'' tests, and is planning to amend the rule to be consistent with the statute. However, USEPA believes that this authority is only applicable with respect to those areas that are subject to Section 182(b)(1).

The change in authority for granting NO_X waivers from Section 182(f) to Section 182(b)(1) has different impacts for areas subject to Section 182(b)(1) depending on whether the area is relying on ''clean air'' data or on modeling data. Areas relying on modeling data must meet the procedure established under Section 182(b)(1), including submitting the exemption request as part of a SIP revision. The USEPA may not take action on exemptions for such areas until the rulemaking amending the transportation conformity rule to establish Section 182(b)(1) as the appropriate authority for granting such relief has been completed. ''Clean data'' areas that would otherwise be subject to Section 182(b)(1), such as Cincinnati and Cleveland, will be relieved of the transportation conformity rule's interim period NO_X requirements at such time as USEPA takes final action implementing its recently-issued policy regarding the applicability of Section 182(b)(1) requirements for areas demonstrating attainment of the ozone NAAQS based on ''clean data''. This policy is contained in a May 10, 1995, memorandum from John Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' which should be referred to for a more thorough discussion. The aspect of the policy that is relevant here is USEPA's determination that the Section 182(b)(1) provisions regarding reasonable further progress (RFP) and attainment demonstrations may be interpreted so as not to require the SIP submissions otherwise called for in Section 182(b)(1) if an ozone nonattainment area that would otherwise be subject to those requirements is in fact attaining the ozone standard (i.e., attainment of the NAAQS is demonstrated with 3 consecutive years of complete, quality-assured, air-quality monitoring data). Any such ''clean data'' areas, under this interpretation, would no longer be subject to the requirements of Section 182(b)(1) once USEPA takes final rulemaking action adopting the interpretation in conjunction with its determination that the area has attained the standard. At that time, such areas would be treated like ozone nonattainment areas classified marginal and below, and hence eligible for NO_X waivers from the interim-period transportation conformity requirements by obtaining a waiver under Section 182(f), as described below.

Marginal and below ozone nonattainment areas (which represents the majority of the areas USEPA is taking action on today) are not subject to Section 176(c)(3)(A)(iii) because they are not subject to Section 182(b)(1), and general federal actions are also not subject to Section 176(c)(3)(A)(iii) (and, hence, are not subject to Section 182(b)(1) either). These areas, however, are still subject to the conformity requirements of Section 176(c)(1), which sets out criteria that, if met, will assure consistency with the SIP. The USEPA believes it is reasonable and consistent with the Act to provide relief under Section 176(c)(1) for areas not subject to Section 182(b)(1) from applicable NO_X conformity requirements where the Agency has determined that NO_X reductions would not be beneficial, and to rely, in doing so, on the NO_X exemption tests provided in Section 182(f) for the reasons given below.

The basic approach of the Act is that NO_X reductions should apply when beneficial to an area's attainment goals, and should not apply when unhelpful or counterproductive. Section 182(f) reflects this approach but also includes specific substantive tests which provide a basis for USEPA to determine when NO_X requirements should not apply.

[1] ''Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act,'' November 24, 1993 (58 FR 62188).

[2] ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule,'' November 30, 1993 (58 FR 63214).

Whether under Section 182(b)(1) or Section 182(f), where USEPA has determined that NO_X reductions will not benefit attainment or would be counterproductive in an area, USEPA believes it would be unreasonable to insist on NO_X reductions for purposes of meeting RFP or other milestone requirements. Moreover, there is no substantive difference between the technical analysis required to make an assessment of NO_X impacts on attainment in a particular area whether undertaken with respect to mobile source or stationary source NO_X emissions. Consequently, USEPA believes that granting relief from the NO_X conformity requirements of Section 176(c)(1) under Section 182(f) in these cases is appropriate.

Action

* Marginal and Nonclassifiable Ozone Nonattainment Areas

The USEPA is approving, as proposed in the January 17, 1995 **Federal Register** (60 FR 3361), the transportation and general conformity exemption requests submitted under Section 182(f) of the Act for the following areas: Canton (Stark County), Columbus (Delaware, Franklin and Licking Counties), Youngstown (Mahoning and Trumbull Counties), Steubenville (Columbiana and Jefferson Counties), Preble County, and Clinton County.

* Moderate and Above Ozone Nonattainment Areas

The USEPA is delaying action at this time on approval of the transportation conformity exemptions for the Cincinnati and Cleveland ozone nonattainment areas. As explained above, USEPA must complete its rulemaking determining that these areas have attained the ozone standard and, in conjunction, implementing its interpretation that the SIP submissions otherwise called for in Section 182(b)(1) no longer apply. Thus, further action on this approval will occur only as such time as USEPA takes final action.

VI. NO_X RACT Rules

Cincinnati-Hamilton Interstate Moderate Ozone Nonattainment Area

The State of Ohio was required to submit NO_X RACT rules to USEPA for the Ohio portion of the Cincinnati-Hamilton interstate area. On July 14, 1994, USEPA notified the Governor of Ohio that the State had failed to submit the required rules. The State is required to either submit complete rules to USEPA (or have its NO_X exemption request approved, in final) within 18 months from the date of the finding in order to avoid the initiation of sanctions under Section 179(b) of the Act. Upon the effective date of the final approval of the exemption request for the Ohio portion of the Cincinnati-Hamilton Interstate area, the 18 month ''sanctions clock'' shall stop.

On November 15, 1994, the State of Ohio submitted a redesignation request to attainment of the ozone NAAQS for the Ohio portion of the Cincinnati-Hamilton interstate ozone nonattainment area. This redesignation request will be evaluated in a separate rulemaking. The State has included NO_X RACT as a contingency measure of the maintenance plan. The USEPA does not require that these rules be adopted to be included as a contingency measure. However, a specific schedule is provided for the adoption and implementation of NO_X RACT rules if a violation of the ozone standard is monitored in the interstate area (which includes the following Counties located in the State of Kentucky: Boone, Kenton, and Campbell).

Cleveland Moderate Ozone Nonattainment Area

The State of Ohio submitted adopted NO_X RACT rules to USEPA on July 1, 1994, for the Toledo, Dayton, and Cleveland ozone nonattainment areas. These rules are currently under review and will be evaluated in a separate rulemaking. The State provided the following provision in the RACT rules submittal (Ohio Administrative Code (3745–14–02(B)(3)) for the suspension of the RACT rules:

''The Director also may suspend the requirements of this Chapter in an area in the event that the USEPA issues a national policy and/or promulgates a regulation which, based upon the ambient air monitoring data for ozone in the area, eliminates the need for NO_X control requirements in that area.''

On November 1, 1994, the State of Ohio submitted a redesignation request to attainment of the ozone NAAQS for the Cleveland moderate ozone nonattainment area. This redesignation request will be evaluated in a separate rulemaking. The State has included NO_X RACT as a contingency measure of the maintenance plan. The USEPA does not require that these rules be adopted to be included as a contingency measure. However, a specific schedule is provided for the adoption and implementation of NO_X RACT rules if a violation of the ozone standard is monitored in the area.

VII. Inspection and Maintenance (I/M) Programs

Cincinnati-Hamilton Interstate Moderate Ozone Nonattainment Area

For the Cincinnati area, the local area government has opted for an enhanced I/M program. The I/M Final Rule (57 FR 52950) provides that if the Administrator determines that NO_X emission reductions are not beneficial in a given ozone nonattainment area, then NO_X emission reductions are not required of the enhanced I/M program, but the program shall be designed to offset NO_X increases resulting from the repair of motor vehicles that have failed the hydrocarbon (HC) and carbon monoxide (CO) testing procedures.[3] Upon the effective date of this action, the Butler, Clermont, Hamilton and Warren Counties shall not be required to demonstrate compliance with the enhanced I/M performance standard for NO_X. However, the State shall be required to demonstrate, using USEPA's—Mobile Source Emissions Model, Mobile 5a (or its successor), that NO_X emissions will be no higher than in the absence of any I/M program.

Cleveland Moderate Ozone Nonattainment Area

For the Cleveland area, the local area government has opted for an enhanced I/M program for the following counties: Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit. The I/M Final Rule (57 FR 52950) provides that if the Administrator determines that NO_X emission reductions are not beneficial in a given ozone nonattainment area, then NO_X emission reductions are not required of the enhanced I/M program, but the program shall be designed to offset NO_X increases resulting from the repair of motor vehicles that have failed the hydrocarbon (HC) and carbon monoxide (CO) testing procedures. Upon the effective date of this action, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit Counties shall not be required to demonstrate compliance with the enhanced I/M performance standard for NO_X. However, the State shall be required to demonstrate, using USEPA's—Mobile Source Emissions Model, Mobile 5a (or its successor), that NO_X emissions will be no higher than in the absence of any I/M program.

[3] Additional clarification concerning the I/M requirements and areas with NO_X exemptions is provided in a memorandum from Mary T. Smith, Acting Director, Office of Mobile Sources, dated October 14, 1994, entitled ''I/M Requirements in NO_X RACT Exempt Areas.''

VIII. Withdrawal of the Exemptions

Until an area has been redesignated to attainment, continuation of the Section 182(f) exemptions granted herein is contingent upon continued monitoring and continued attainment of the ozone NAAQS in the affected area(s). If a violation of the ozone NAAQS is monitored in an area(s) (consistent with the requirements contained in 40 CFR Part 58 and recorded in AIRS) USEPA will provide notice to the public in the **Federal Register** withdrawing the exemption.

A determination that the NO_X exemption no longer applies would mean that the NO_X NSR, general conformity, and transportation conformity provisions would immediately be applicable (see 58 FR 63214 and 58 FR 62188) for the affected area(s). The NO_X RACT requirements would also be applicable, with a reasonable time provided as necessary to allow major stationary sources subject to the RACT requirements to purchase, install and operate the required controls. The USEPA believes that the State may provide sources a reasonable time period after the USEPA determination to actually meet the RACT emission limits. The USEPA expects such time period to be as expeditious as practicable, but in no case longer than 24 months.

If a nonattainment area is redesignated to attainment of the ozone NAAQS, but then a violation of the ozone NAAQS occurs, NO_X RACT shall be implemented as stated in the maintenance plan.

IX. Notice of Proposed Rulemaking and Responses to Comments

The USEPA published a notice proposing to approve the exemption requests for the Cincinnati, Cleveland, and other nonattainment areas in Ohio in the January 17, 1995 **Federal Register** (60 FR 3361). The USEPA received comments supporting and adverse to this proposed action. Copies of all comments have been placed in the docket file. The following entities submitted adverse or supporting comments:

Submitting Entity (date received by USEPA): Natural Resources Defense Council (08–24–94); Columbia Gas Transmission Corporation (02–09–95); Private Citizen (02–14–95); LTV Steel Company (02–16–95); Ohio Sierra Club (02–21–95); Akron Regional Infrastructure Alliance (03–29–95); State of New Hampshire—Department of Environmental Services (03–30–95); Northeast States for Coordinated Air Use Management (03–30–95); Ameritech (03–31–95); Southern Environmental Law Center (04–03–95); Private Citizen (04–03–95); Environmental Defense Fund (04–03–95); Greater Cleveland Growth Association (04–03–95); Portage County Board of Commissioners (04–04–95); State of New York—Department of Environmental Conservation (04–10–95); State of New Jersey—Department of Environmental Protection (04–10–95); Executive of the County of Summit (04–11–95).

Some of the adverse comments addressed similar points. The USEPA responds to these comments by issue as follows:

Procedural Comments: Several commenters argued that USEPA should not approve the waiver requests at issue on procedural grounds. NO_X exemptions are provided for in two separate parts of the Act, Section 182(b)(1) and Section 182(f). Commenters took the position that because the NO_X exemption tests in Subsections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place ''when [EPA] approves a plan or plan revision,'' that all NO_X exemption determinations by USEPA, including exemption actions taken under the petition process established by Subsection 182(f)(3), must occur during consideration of an approvable attainment or maintenance plan, unless the area has been redesignated to attainment for the ozone NAAQS. These commenters also argue that even if the petition procedures of Subsection 182(f)(3) may be used to relieve areas of certain NO_X requirements, exemptions from the NO_X conformity requirements must follow the process provided in Subsection 182(b)(1), since this is the only provision explicitly referenced by Section 176(c) in the Act's conformity provisions.

USEPA Response: Section 182(f) contains very few details regarding the administrative procedure for USEPA action on NO_X exemption requests. The absence of specific guidelines by Congress leaves USEPA with discretion to establish reasonable procedures, consistent with the requirements of the Administrative Procedure Act (APA).

The USEPA believes that Subsections 182(f)(1) and 182(f)(3) provide independent procedures for USEPA to act on NO_X exemption requests. The language in Subsection 182(f)(1), which indicates that USEPA should act on NO_X exemptions in conjunction with action on a plan or plan revision, does not appear in Subsection 182(f)(3). While Subsection 182(f)(3) references Subsection 182(f)(1), USEPA believes that this reference encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], and not the procedural requirement that USEPA act on exemptions only when acting on SIPs. Additionally, paragraph (3) provides that ''person[s]'' (which Section 302(e) of the Act defines to include States) may petition for NO_X exemptions ''at any time,'' and requires USEPA to make its determination within six months of the petition's submission. These key differences lead USEPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

Section 182(f)(1) appears to contemplate that exemption requests submitted under these paragraphs are limited to States, since States are the entities authorized under the Act to submit plans or plan revisions. By contrast, Section 182(f)(3) provides that ''person[s]''[4] may petition for a NO_X determination ''at any time'' after the ozone precursor study required under Section 185B of the Act is finalized,[5] and gives USEPA a limit of 6 months after filing to grant or deny such petitions. Since individuals may submit petitions under paragraph (3) ''at any time,'' this must include times when there is no plan revision from the State pending at USEPA. The specific timeframe for USEPA action established in paragraph (3) is substantially shorter than the timeframe usually required for States to develop and for USEPA to take action on revisions to a SIP. These differences strongly suggest that Congress intended the process for acting on petitions under paragraph (3) to be distinct from and more expeditious than the plan revision process intended under paragraph (1). Thus, USEPA believes that paragraph (3)'s reference to paragraph (1) encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], not the requirement in paragraph (1) for USEPA to grant exemptions only when acting on plan revisions. With respect to the comment that Section 182(b)(1) provides the appropriate authority to grant transportation conformity NO exemptions, please refer to the discussion in '' Section V., Approval Under Section 182(b),'' of this notice.

Air Monitoring Network: One commenter stated that the network established for air monitoring is

[4] Section 302(e) of the Act defines the term ''person'' to include States.

[5] The final Section 185B report was issued July 30, 1993.

insufficient to accurately assess the ambient air quality in these areas.

USEPA Response: The USEPA has established ambient air monitoring networks for each of these areas to provide the most accurate assessment of the ambient air concentrations of ozone as practicable. These monitors meet the requirements set in 40 CFR Part 58 for ambient air monitoring, and USEPA has not been provided with any evidence that would allow it to conclude either that the number of monitors nor their locations are inadequate.

Attainment Data Comments: Three years of ''clean'' data fail to demonstrate that NO_X reductions would not contribute to attainment of the NAAQS for ozone. The USEPA's policy erroneously equates the absence of a violation for one three-year period with ''attainment.''

USEPA Response: The USEPA has separate criteria for determining if an area should be redesignated to an ozone attainment area under Section 107 of the Act. The Section 107 redesignation criteria are more comprehensive than the Act requires with respect to NO_X exemptions under Section 182(f).

Under Section 182(f)(1)(A), an exemption from the NO_X requirements may be granted for nonattainment areas outside an OTR if USEPA determines that ''additional reductions of [NO_X] would not contribute to attainment'' of the ozone NAAQS in those areas. In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by 3 years of adequate monitoring data, without having implemented the Section 182(f) NO_X provisions over that 3-year period.

In cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data without having implemented the Section 182(f) NO_X provisions, USEPA believes that the Section 182(f) test is met since ''additional reductions of [NO_X] would not contribute to attainment'' of the NAAQS in that area. In cases where it is warranted, USEPA's approval of the exemption is granted on a contingent basis (i.e., the exemption would last for only as long as the area's monitoring data continue to demonstrate attainment).

Review Criteria: One commenter requested that USEPA should review all exemption requests with the same level of scrutiny.

USEPA Response: It is the Clean Air Act itself, not USEPA, that treats areas differently for purposes of qualifying for a NO_X exemption. Section 182(f) establishes separate criteria for USEPA to use in determining whether an area should be granted a NO_X exemption or not depending on whether an area falls within or outside of an OTR. Within these bounds, USEPA has established national guidance for evaluating NO_X petitions. The relevant NO_X exemption guidance documents are listed earlier in this notice. Each USEPA Regional Office implements the established policy contained in the guidance when evaluating individual State's exemption requests. The USEPA—Region 5 used the same criteria and scrutiny in reviewing these exemption requests and finds that these exemption requests submitted by the State meet the procedures set forth in the guidance in order to meet the applicable requirements of the Act.

Modeling Comments: Some commenters stated that no modeling has been performed to show that NO_X is not a contributor to the ozone ''problem'' in these nonattainment areas and in downwind areas. Other commenters stated that the modeling required by USEPA guidance is insufficient to establish that NO_X reductions would not contribute to attainment of the ozone NAAQS.

USEPA Response: As described in USEPA's December 1993 NO_X exemption guidance,[6] photochemical grid modeling is generally needed to document cases where NO_X reductions are counterproductive to net air quality, do not contribute to attainment, do not show a net ozone benefit, or include excess reductions. The Urban Airshed Model (UAM) or, in the OTR, the Regional Oxidant Model (ROM), are acceptable methods for these purposes. However, the December guidance also provides that, under the ''not contribute to attainment test,'' an area may qualify for a NO_X exemption by attaining the ozone standard, as demonstrated by three years of ambient air monitoring data. The exemption requests submitted by the State for these areas are based upon ambient air monitoring data for ozone, which demonstrate that the area is in fact attaining the NAAQS and, consequently, additional reductions of NO_X in that area would not ''contribute to attainment''. The comment regarding the sufficiency of USEPA's modeling guidance is not relevant to this action since these petitions are based on air monitoring data. For additional information, please refer to the ''Downwind Area'' comments and response below.

[6] ''Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f),'' from John S. Seitz, Director, Office of Air Quality Planning and Standards, dated December 19, 1993.

SIP Status Request: One commenter stated that since other SIP revisions have not been approved (i.e., the 15% rate-of-progress plans, maintenance plans, contingency plans, and redesignation request), it is premature to approve the exemption requests.

USEPA Response: This action only addresses the requests for exemptions from the NO_X requirements contained in Section 182(f) of the Act and from certain NO_X requirements of USEPA's I/M and conformity regulations as submitted by the State of Ohio. Final actions by USEPA on these requests are not dependent on final actions on other required SIP submittals, such as the ones mentioned. Non-related SIP revisions will be addressed separately. See also USEPA response to ''Conclusive Evidence'' comments.

Transportation Modeling and Emissions Estimates: One commenter cited a specific highway project, and others stated that generally there were significant flaws in the transportation modeling and with the SIP emission estimates for several of the areas included in the exemption petition.

USEPA Response: This action addresses only the requests for exemptions from the NO_X requirements contained in Section 182(f) of the Act and certain NO_X requirements of USEPA's conformity and I/M regulations as submitted by the State of Ohio based upon ambient air monitoring data. Transportation modeling and emission estimates are not required to be reviewed as part of this approval. Therefore, adverse comments submitted concerning transportation modeling and emissions estimates are not being further addressed.

Attainment Demonstration Comments: Some commenters stated that ambient air monitoring data is a poor indicator for the purpose of demonstrating that NO_X reductions would not contribute to attainment.

USEPA Response: Under Section 182(f)(1)(A), an exemption from the NO_X requirements may be granted for nonattainment areas outside an OTR if USEPA determines that ''additional reductions of [NO_X] would not contribute to attainment'' of the ozone NAAQS in those areas. In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by 3 years of adequate monitoring data, without having implemented the Section 182(f) NO_X provisions over that 3-year period. In cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data without having

implemented the Section 182(f) NO_X provisions, USEPA believes that the Section 182(f) test is met since ''additional reductions of [NO_X] would not contribute to attainment'' of the NAAQS in that area. In all such cases, USEPA's approval of the exemption is granted on a contingent basis (i.e., the exemption would last for only as long as the area's monitoring data continue to demonstrate attainment). The policy described above is applicable to the areas of the country that successfully meet the ''not contribute to attainment'' NO_X exemption test in Section 182(f)(1)(A), and is further described in USEPA's December 1993 guidance and May 27, 1994, policy memorandum.

Downwind Area Comments: Several commenters note that USEPA's December 1993 guidance prohibits granting a Section 182(f) waiver based on 3 years of clean data if evidence exists showing that the waiver would interfere with attainment or maintenance in downwind areas. The commenters argue that the same condition should also apply to waiver requests based on modeling. Exemptions in Ohio cities, they claim, are likely to exacerbate ozone nonattainment downwind, and therefore are not consistent with the Act. If the exemptions are granted, emissions from new stationary sources and the transportation sector in Ohio, which are projected to increase, could delay attainment of the ozone standard in areas in the northeastern United States.

These commenters further claim that USEPA modeling has demonstrated that Ohio is a significant contributor to atmospheric transport of ozone precursors to the OTR. Since this modeling indicates that emissions of NO_X from stationary sources west of the OTR contribute to increased ozone levels in the northeast, they argue that control of NO_X emissions in the OTR and in States west of the OTR will contribute to significant reductions in peak ozone levels within the OTR.

USEPA Response: As a result of such comments, USEPA has re-evaluated its position on this issue and decided to revise the previously-issued guidance.[7] As described below, USEPA intends to use its authority under Section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State. This action would be independent of any action taken by USEPA on a NO_X exemption request for stationary sources under Section 182(f). That is, USEPA action to grant or deny a NO_X exemption request under Section 182(f) would not shield that area from USEPA action to require NO_X emission reductions, if necessary, under Section 110(a)(2)(D).

Recent modeling data suggest that certain ozone nonattainment areas may benefit from reductions in NO_X emissions far upwind of the nonattainment area. For example, the northeast corridor and the Lake Michigan areas are considering attainment strategies which rely in part on NO_X emission reductions hundreds of miles upwind. The USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. As the studies progress, USEPA will continue to work with the States and other organizations to develop mutually acceptable attainment strategies.

At the same time as these large scale modeling analyses are being conducted, certain nonattainment areas that are located in the area being modeled, have requested exemptions from NO_X requirements under Section 182(f). Some areas requesting an exemption may impact upon downwind nonattainment areas. The USEPA intends to address the transport issue through Section 110(a)(2)(D) based on a domain-wide modeling analysis.

Under Section 182(f) of the Act, an exemption from the NO_X requirements may be granted for nonattainment areas outside an OTR if USEPA determines that ''additional reductions of [NO_X] would not contribute to attainment of the national ambient air quality standard for ozone in the area.''[8] As described in section 4.3 of the December 16, 1993 guidance document, USEPA believes that the term ''area'' means the ''nonattainment area,'' and that USEPA's determination is limited to consideration of the effects in a single nonattainment area due to NO_X emissions reductions from sources in the same nonattainment area.

Section 4.3 of the guidance goes on to encourage, but not require, States/petitioners to include consideration of the entire modeling domain, since the effects of an attainment strategy may extend beyond the designated nonattainment area. Specifically, the guidance encourages States to ''consider imposition of the NO_X requirements if needed to avoid adverse impacts in downwind areas, either intra- or inter-State. States need to consider such impacts since they are ultimately responsible for achieving attainment in all portions of their State (see generally Section 110) and for ensuring that emissions originating in their State do not contribute significantly to nonattainment in, or interfere with maintenance by, any other State [see Section 110(a)(2)(D)(i)(I)].''

In contrast, Section 4.4 of the guidance states that the Section 182(f) demonstration would not be approved if there is evidence, such as photochemical grid modeling, showing that the NO_X exemption would interfere with attainment or maintenance in downwind areas. The guidance goes on to explain that Section 110(a)(2)(D) [not Section 182(f)] prohibits such impacts.

Consistent with the guidance in section 4.3, USEPA believes that the Section 110(a)(2)(D) and 182(f) provisions must be considered independently, and, hence, is withdrawing the guidance presently contained in Section 4.4. Thus, if there is evidence that NO_X emissions in an upwind area would interfere with attainment or maintenance in a downwind area, that action should be separately addressed by the State(s) or, if necessary, by USEPA in a Section 110(a)(2)(D) action. A Section 182(f) exemption request should be independently considered by USEPA. In some cases, then, USEPA may grant an exemption from across-the-board NO_X RACT controls under Section 182(f) and, in a separate action, require NO_X controls from stationary and/or mobile sources under Section 110(a)(2)(D). It should be noted that the controls required under Section 110(a)(2)(D) may be more or less stringent than RACT, depending upon the circumstances. Consistent with these principles, USEPA is approving these exemption requests under Section 182(f) of the Act. If evidence appears that NO_X emissions in an upwind area would interfere with attainment or maintenance in a

[7] Please refer to ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria,'' from John Seitz, Director, OAQPS, dated February 8, 1995.

[8] There are three NO_X exemption tests specified in Section 182(f). Of these, two are applicable for areas outside an ozone transport region; the ''contribute to attainment'' test described above, and the ''net air quality benefits'' test. The USEPA must determine, under the latter test, that the net benefits to air quality in an area ''are greater in the absence of NO_X reductions'' from relevant sources. Based on the plain language of Section 182(f), USEPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption. Consequently, as stated in Section 1.4 of the December 16, 1993 USEPA guidance, ''[w]here any one of the tests is met (even if another test is failed), the Section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.''

downwind area, appropriate action shall be taken by the State(s) or, if necessary, by USEPA under Section 110(a)(2)(D). The USEPA also believes this approach is consistent with statements made by Mary Nichols, Assistant Administrator for Air and Radiation, in a March 2, 1995, memorandum entitled ''Ozone Attainment Demonstrations,'' concerning the development of regional approaches to resolve NO_X transport issues. Also see response to comment on ''Alternative Ozone Attainment Demonstration Policy''.

Scope of Exemption: One commenter stated that if USEPA granted these exemptions, NO_X RACT and NSR would be waived for all NO_X sources in the State of Ohio.

USEPA Response: Upon the effective date of this final approval, NO_X RACT and NSR will not be required for any nonattainment area in the State of Ohio; however, the NO_X requirements of Title IV, acid rain, are not affected by this action and must be met by affected sources in Ohio. Moreover, as noted earlier, all NO_X exemption approvals are contingent upon the exempted areas continuing to attain the ozone NAAQS, and would no longer apply in any previously-exempted area where, prior to redesignation, a violation occurs. Also, NO_X reductions that are needed for maintenance would still be applicable.

Alternative Ozone Attainment Demonstration Policy: One commenter stated that proposed approval of Ohio's exemption requests seems premature in light of a recent USEPA policy memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled ''Ozone Attainment Demonstrations,'' dated March 2, 1995.

USEPA Response: The March 2, 1995, policy memorandum is applicable to ozone nonattainment areas significantly affected by ozone transport that are classified as serious and above (discretion is given to the Regional Offices to determine, in consultation with State Agencies, whether it would be appropriate to apply the policy to other areas in the State). For the State of Ohio, the Cincinnati-Hamilton interstate area is the only area that may be affected by this memorandum. However, a redesignation request has been submitted for this area, and upon the effective date of the final approval, an attainment demonstration for this area would no longer be required, thus relieving that area of the need for the flexibility offered in the March 2nd memorandum. Please note that the States of Ohio and Kentucky are still funding a contractual effort to develop an attainment demonstration for the area in the event the redesignation requests are not approved. See also response to comment regarding ''Downwind Areas''.

Conclusive Evidence: The Act does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counter-productive.

USEPA Response: The USEPA does not agree with this comment since it is contrary to Congressional intent as evidenced by the plain language of Section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. In developing and implementing its NO_X exemption policies, USEPA has sought an approach that reasonably accords with that intent.

In addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for such sources of VOC, Section 182(f) also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, USEPA determines that in certain areas NO_X reductions would generally not be beneficial. In Subsection 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under Section 185B. Because of the possibility that reducing NO_X in a particular area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in Section 182(f), but throughout the Title I ozone subpart, to avoid requiring NO_X reductions where they would be non-beneficial or counterproductive.

In describing these various ozone provisions (including Section 182(f), the House Conference Committee Report states in pertinent part: ''[T]he Committee included a separate NO_X/VOC study provision in Section [185B] to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area.'' H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990).

As noted in response to a comment discussed above, the command in Subsection 182(f)(1) that USEPA ''shall consider'' the Section 185B report taken together with the timeframe the Act provides both for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed Section 185B report would provide a sufficient basis for USEPA to act on NO_X exemption requests, even absent the additional information that would be included in affected areas' attainment or maintenance demonstrations. However, while there is no specific requirement in the Act that USEPA actions granting NO_X exemption requests must await ''conclusive evidence,'' as the commenters argue, there is also nothing in the Act to prevent USEPA from revisiting an approved NO_X exemption if warranted due to subsequent ambient monitoring information.

In addition, USEPA believes (as described in USEPA's December 1993 guidance) that Section 182(f)(1) of the Act provides that the new NO_X requirements shall not apply (or may by limited to the extent necessary to avoid excess reductions) if the USEPA Administrator determines that any one of the following tests is met:

(1) In any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned;

(2) In nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) In nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region.

Based on the plain language of Section 182(f), USEPA believes that each test provides an independent basis for the granting of a full or limited NO_X exemption.

Only the first test listed above is based on a showing that NO_X reductions are ''counter-productive.'' If even one of the tests is met, the Section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

Air Quality Comment: One commenter stated that attainment of the ozone NAAQS has not occurred, while several commenters stated that the air quality monitoring data alone does not support this exemption proposal (even though the air quality levels are below USEPA's definition of an exceedance of the ozone NAAQS at 0.125 ppm, but are greater than the ozone NAAQS of 0.120 ppm).

USEPA Response: The exemption requests were evaluated against the standards set forth for this purpose under the Act, regulations, and USEPA policy. As stated in 40 CFR 50.9, the ozone ''standard is attained when the expected number of days per calendar year with maximum hourly average

concentrations above 0.12 parts per million (235 ug/m^3) is equal to or less than 1, as determined by Appendix H.'' Appendix H references USEPA's ''Guideline for Interpretation of Ozone Air Quality Standards,'' (EPA–450/4–79–003, January 1979), which notes that the stated level of the standard is taken as defining the number of significant figures to be used in comparison with the standard. For example, a standard level of 0.12 ppm means that measurements are to be rounded to two decimal places (0.005 rounds up to 0.01). Thus, 0.125 ppm is the smallest concentration value in excess of the level of the ozone standard (please refer to ''Section IV. Analysis of the State Submittal'' in this notice for monitored ozone concentrations in these areas). Based on these criteria, the ambient air monitoring data shows that a violation of the ozone standard has not occurred for any of the areas during the indicated ozone seasons.

Monitoring Data Demonstration: One commenter was concerned that USEPA reviewed 1991–1993 ambient air ozone monitoring data for the exemption request submitted for the Canton, Columbus, Steubenville, Youngstown areas; Preble and Clinton Counties; and 1992–1994 ambient air ozone monitoring data for the Cleveland and Cincinnati areas. The commenter believed that the inconsistencies between these time periods brought into question the entire proposed approval.

USEPA Response: The USEPA reviewed the exemption requests based on when the submittal and accompanying ozone data were received by USEPA. For the marginal and nonclassifiable ozone nonattainment areas, the exemption requests were submitted to USEPA in a letter dated March 18, 1994 (based upon monitoring data from the 1991–1993 ozone seasons). For the Cleveland and Cincinnati areas, the State submitted the exemptions requests in letters dated November 1 and 15, 1994, respectively, (based upon monitoring data from the 1992–1994 ozone seasons). The approvals are consistent with the criteria in 40 CFR 50.9 and Appendix H, as well as with relevant USEPA guidance, under which the relevant factor is that there are 3 consecutive years during which the standard has been attainment as demonstrated by quality-assured ambient air quality data.

X. Final Action

The USEPA is approving, in final, the exemption requests submitted by the State of Ohio from the NO_X requirements provided for in Section 182(f) of the Act. This approval would exempt the following Counties in Ohio from the NO_X-related general and transportation conformity provisions; and nonattainment area NSR for new sources and modifications that are major for NO_X: Clinton, Columbiana, Delaware, Franklin, Jefferson, Licking, Mahoning, Preble, Stark, and Trumbull.

This approval also exempts the following Counties in Ohio from the NO_X-related general conformity provisions, nonattainment area NSR for new sources and modifications that are major for NO_X, NO_X RACT; and a demonstration of compliance with the enhanced I/M performance standard for NO_X (please note that the following counties are not being granted an exemption from the transportation conformity NO_X provisions): Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit and Warren.

XI. General Provisions

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

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

XII. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Today's exemptions do not create any new requirements, but allow suspension of the indicated requirements for the life of the exemptions. Therefore, because the approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected.

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

The USEPA's final action relieves requirements otherwise imposed under the Act and hence, does not impose any federal intergovernmental mandate, as defined in Section 101 of the Unfunded Mandates Act. This action also will not impose a mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 11, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 30, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1879 is amended by adding new paragraph (e) to read as follows:

§ 52.1879 Review of new sources and modifications.

* * * * *

(e) *Approval*—The USEPA is approving exemption requests submitted by the State of Ohio on March 18, November 1, and November 15, 1994, from the requirements contained in Section 182(f) of the Clean Air Act. This approval exempts the following counties in Ohio from the NO_X-related general and transportation conformity provisions; and nonattainment area NSR for new sources and modifications that are major for NO_X: Clinton, Columbiana, Delaware, Franklin, Jefferson, Licking, Mahoning, Preble, Stark, and Trumbull. This approval also exempts the following counties in Ohio from the NO_X-related general conformity provisions, nonattainment area NSR for new sources and modifications that are major for NO_X, NO_X RACT; and a demonstration of compliance with the enhanced I/M performance standard for NO_X: Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit and Warren. If, prior to redesignation to attainment, a violation of the ozone NAAQS is monitored in the Canton, Cincinnati, Cleveland, Columbus, Youngstown, and Steubenville areas, Preble County and Clinton County, the exemptions from the requirements of Section 182(f) of the Act in the applicable area(s) shall no longer apply.

3. Section 52.1885 is amended by adding new paragraph (x) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(x) *Approval*—The USEPA is approving exemption requests submitted by the State of Ohio on March 18, November 1, and November 15, 1994, from the requirements contained in Section 182(f) of the Clean Air Act. This approval exempts the following counties in Ohio from the NO_X-related general and transportation conformity provisions, and nonattainment area NSR for new sources and modifications that are major for NO_X: Clinton, Columbiana, Delaware, Franklin, Jefferson, Licking, Mahoning, Preble, Stark, and Trumbull. This approval also exempts the following counties in Ohio from the NO_X-related general conformity provisions, nonattainment area NSR for new sources and modifications that are major for NO_X, NO_X RACT, and a demonstration of compliance with the enhanced I/M performance standard for NO_X: Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit, and Warren. If, prior to redesignation to attainment, a violation of the ozone NAAQS is monitored in the Canton, Cincinnati, Cleveland, Columbus, Youngstown, and Steubenville areas, Preble County and Clinton County, the exemptions from the requirements of Section 182(f) of the Act in the applicable area(s) shall no longer apply.

[FR Doc. 95–17211 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL101–1–6689a; FRL–5249–9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the Particulate Matter contingency measures State implementation plan (SIP) revisions submitted by the State of Illinois on July 29, 1994. The USEPA made a finding of completeness in a letter dated December 9, 1994. This submittal addresses the Federal Clean Air Act requirement to submit contingency measures for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM) for the areas designated as nonattainment for the PM National Ambient Air Quality Standards (NAAQS). In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

DATES: This final rule is effective September 11, 1995 unless notice is received by August 14, 1995 that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State's submittal and other information are available for inspection at the following address: (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), Regulation Development Branch, Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

The four Illinois PM nonattainment areas are: (1) Lyons Township in Cook County; (2) The area in Cook County bounded on the north by 79th Street, on the west by interstate 57 between Sibley Boulevard and Interstate 94 and by Interstate 94 between Interstate 57 and 79th Street, on the south by Sibley Boulevard, and on the east by the Illinois/Indiana State line; (3) Oglesby, LaSalle County including the following townships ranges and sections: T32N, R1E, S1; T32N, R2E, S6; T33N, R1E, S24; T33N, R1E, S25; T33N, R2E, S30; T33N, R2E, S31; and T33N, R1E, S36; and (4) Granite City Township and Nameoki Township in Madison County. These nonattainment areas will be referred to in this notice as the McCook, Lake Calumet, LaSalle, and Granite City nonattainment areas, respectively. These areas were designated nonattainment for PM and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990. See 56 FR 56694 (Nov. 6, 1991); 40 CFR 81.314. The air quality planning requirements for moderate PM nonattainment areas are set out in subparts 1 and 4 of part D, Title I of the Clean Air Act. The USEPA has issued a ''General Preamble'' describing USEPA's preliminary views on how USEPA intends to review SIPs and SIP revisions submitted under Title I of the Clean Air Act, including those State submittals containing moderate PM nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because USEPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this action and the supporting rationale.

The 1990 Amendments to the Clean Air Act made significant changes to the Clean Air Act. References herein are to the Clean Air Act, as amended (the Act). The Clean Air Act is codified, as

amended, in the U.S. Code at 42 U.S.C. Sections 7401, et seq. Subpart 1 contains provisions applicable to nonattainment areas generally and Subpart 4 contains provisions specifically applicable to PM nonattainment areas. At times, Subpart 1 and Subpart 4 overlap or conflict. The USEPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' and, as appropriate, in today's action and supporting information.

Those States containing initial moderate PM nonattainment areas were required to submit, among other things, several provisions by November 15, 1991. These provisions are described in USEPA's rulemaking on the LaSalle moderate PM nonattainment area SIP (58 FR 54291, October 21, 1993) and in the rulemaking on the McCook, Lake Calumet, and Granite City moderate PM nonattainment areas SIP (59 FR 59653, November 18, 1994). Such States were also required to submit contingency measures by November 15, 1993 (see 57 FR 13543). These measures must become effective, without further action by the State or USEPA, upon a determination by USEPA that the area has failed to achieve reasonable further progress (RFP) or to attain the PM NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13510–13512 and 13543–13544.

II. Analysis of State Submittal

Section 110(k) of the Act sets out provisions governing USEPA's review of SIP submittals (see 57 FR 13565–13566). The Illinois Environmental Protection Agency (IEPA) submitted a requested SIP revision to the USEPA with a letter dated July 29, 1994. The submittal contains revisions to Title 35 of the Illinois Administrative Code (IAC), Parts 106 and 212. Specifically, the following sections are added:

Subpart J: Culpability Determinations

Section 106.930 Applicability
Section 106.931 Petition for Review
Section 106.932 Response and Reply
Section 106.933 Notice and Hearing
Section 106.934 Opinion and Order

Subpart U: Additional Control Measures

Section 212.700 Applicability
Section 212.701 Contingency Measure Plans, Submittal and Compliance Date
Section 212.702 Determination of Contributing Sources
Section 212.703 Contingency Measure Plan Elements
Section 212.704 Implementation
Section 212.705 Alternative Implementation

A. Procedural Requirements

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to USEPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

The USEPA also must determine whether a submittal is complete and therefore warrants further USEPA review and action (see Section 110(k)(1) and 57 FR 13565). The USEPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. The USEPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by USEPA six months after receipt of the submission.

The State of Illinois, after providing adequate notice, held a public hearing on February 22, 1994, regarding the PM contingency measures. Following the public hearing, the contingency measure rules were adopted by the Illinois Pollution Control Board on June 23, 1994, and published in the Illinois Register on July 22, 1994. The State rules became effective on July 11, 1994.

The submittal was reviewed by USEPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittal was found to be complete and a letter dated December 9, 1994, was sent to the State indicating the completeness of the submittals and the next steps to be taken in the review process.

B. Contingency Measures

The Clean Air Act requires States containing PM nonattainment areas to adopt contingency measures that will take effect without further action by the State or USEPA upon a determination by USEPA that an area failed to make RFP or to timely attain the applicable NAAQS, as described in section 172(c)(9). See generally 57 FR 13510–13512 and 13543–13544. Pursuant to section 172(b), the Administrator has established a schedule providing that states containing initial moderate PM nonattainment areas shall submit SIP revisions containing contingency measures no later than November 15, 1993. (See 57 FR 13543, n. 3.)

The General Preamble further explains that contingency measures for PM should consist of other available control measures, beyond those necessary to meet the core moderate area control requirement to implement reasonably available control measures (see Clean Air Act sections 172(c)(1) and 189(a)(1)(C)). Based on the statutory structure, USEPA believes that contingency measures must, at a minimum, provide for continued progress toward the attainment goal during the interim period between the determination that the SIP has failed to achieve RFP/provide for timely attainment of the NAAQS and the additional formal air quality planning following the determination (57 FR 13511).

Section 172(c)(9) of the Act specifies that contingency measures shall ''take effect * * * without further action by the State, or the [USEPA] Administrator.'' USEPA has interpreted this requirement (in the General Preamble at 57 FR 13512) to mean that no further rulemaking activities by the State or USEPA would be needed to implement the contingency measures. In general, USEPA expects all actions needed to affect full implementation of the measures to occur within 60 days after USEPA notifies the State of its failure to attain the standard or make RFP.

The USEPA recognizes that certain actions, such as notification of sources, modification of permits, etc., may be needed before some measures could be implemented. However, States must show that their contingency measures can be implemented with minimal further administrative action on their part and with no additional rulemaking action such as public hearing or legislative review.

The Illinois PM contingency measure rules require sources in PM nonattainment areas with actual annual source-wide emissions of PM of at least 15 tons per year to submit, by November 15, 1994, two levels of contingency measure plans. The Level I contingency plans are to contain measures that would reduce total annual source-wide fugitive emissions of PM by at least 15 percent. The Level II plans are to contain measures to reduce fugitive PM emissions by 25%. The rules require that these plans become Federally enforceable permit conditions.

Following a monitored exceedance of the 24 hour PM NAAQS, IEPA will determine the source or sources which

are likely to have contributed to the exceedance. Depending on the magnitude of the monitored exceedance, IEPA will require culpable sources to implement either Level I or Level II contingency plans within 90 days.

Upon a finding by USEPA that an area has failed to attain the PM NAAQS, all sources in that PM nonattainment area subject to the rules would be required to implement Level II measures within 60 days.

C. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and USEPA (see Sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The USEPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). State implementation plan provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP [see section 110(a)(2)(C)].

The specific measures contained in the Illinois contingency plan are addressed above. The Illinois regulations, as included in the SIP, are legally enforceable by IEPA. Also, the specific Level I and Level II contingency plans will be enforceable by IEPA as operating permit conditions. Further, after culpable sources are determined the State will revise operating permits to include additional control measures and these Federally enforceable operating permits will be submitted to USEPA. The USEPA believes that the State's existing air enforcement program will be adequate to enforce PM contingency plans.

III. Final Action

The USEPA approves Illinois' PM contingency measure rules, submitted by IEPA on July 29, 1994. This submittal addressed PM contingency measure plans that were due on November 15, 1993. The State rules require two levels of contingency measures which would be triggered either by a monitored exceedance of the PM NAAQS or by a finding by USEPA that an area has failed to attain the PM NAAQS. Culpable sources would be determined, the State would revise operating permits to include additional control measures, and these Federally enforceable operating permits would be submitted to USEPA.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on September 11, 1995, unless USEPA receives adverse or critical comments by August 14, 1995. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent action. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on September 11, 1995.

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

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

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 11, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: June 14, 1995.

David Kee,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(111) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(111) On July 29, 1994, Illinois submitted regulations which require adoption and implementation of particulate matter contingency measures for Illinois' four moderate particulate matter nonattainment areas. Sources in the nonattainment areas which emit at least 15 tons of particulate matter must submit two levels of contingency measures, which will then become Federally enforceable. Sources will be required to implement the contingency measures if an exceedance of the National Ambient Air Quality Standard for Particulate Matter is measured, or if the United States Environmental Protection Agency finds that an area has failed to attain the National Ambient Air Quality Standards.

(i) Incorporation by reference.

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board;

(A) Part 106 Hearings Pursuant to Specific Rules, Section 106.930—Applicability, Section 106.931—Petition for Review, Section 106.932—Response and Reply, Section 106.933—Notice and Hearing, Section 106.934—Opinion and Order. Amended at 18 Ill. Reg. 11579–11586. Effective July 11, 1994.

(B) Part 212 Visible and Particulate Matter Emissions, Section 212.700—Applicability, Section 212.701—Contingency Measure Plans, Submittal and Compliance Date, Section 212.702—Determination of Contributing Sources, Section 212.703—Contingency Measure Plan Elements, Section 212.704—Implementation, Section 212.705—Alternative Implementation. Added at 18 Ill. Reg. 11587–11606. Effective July 11, 1994.

[FR Doc. 95–17216 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL123–1–6976a; FRL 5252–7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves the March 28, 1995, Illinois State Implementation Plan (SIP) revision request which consists of a variance for P & S, Incorporated's (P & S) facility, located in Wood Dale, DuPage County, Illinois, from 35 Illinois Administrative Code (IAC) 218.586, the regulations for Stage II vapor recovery. This variance begins on November 1, 1994, and will ultimately expire on April 1, 1996. The granting of this variance is approvable because P & S has demonstrated that immediate compliance with the requirements at issue would impose an arbitrary and unreasonable hardship. USEPA made a finding of completeness on the SIP submittal on May 17, 1995. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. Please be aware that USEPA will institute another rulemaking notice on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action. Parties interested in commenting on this action should do so at this time.

DATES: This final rule is effective September 11, 1995 unless an adverse comment is received by August 14, 1995. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the Illinois submittal are available for public review during normal business hours, between 8 a.m. and 4:30 p.m., at the above address. A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6976), Room 1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6082.

SUPPLEMENTARY INFORMATION: On January 12, 1993, USEPA approved Illinois's Stage II vapor recovery rules (35 Ill. Adm. Code 218) as a revision to the Illinois SIP for ozone, applicable to the Chicago ozone nonattainment area (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County). These regulations satisfy section 182(b)(3) of the Clean Air Act as amended in 1990, which requires certain ozone nonattainment areas to require specified gasoline dispensing facilities to install and operate Stage II vapor recovery equipment. Stage II vapor recovery systems are designed to control and capture at least 95 percent of the Volatile Organic Compound (VOC) vapors emitted during the refueling of motor vehicles. Among these Stage II requirements is the provision that certain gasoline dispensing facilities, such as P & S's facility in Wood Dale, Du Page County, Illinois, must install Stage II vapor recovery equipment no later than November 1, 1994.

The Illinois Department of Transportation (IDOT) is currently upgrading the roads surrounding the P & S facility. It is anticipated that the construction of the roadway will require P & S's facility to relocate its underground storage tanks. Completion of the construction of the roadway is anticipated in early 1996. Installation of the Stage II vapor recovery equipment before the completion of the upgrading of the roadway and the relocation of the facility's tanks would mean that the facility would then be required to install the Stage II vapor recovery equipment twice, both before and after moving the tanks.

On October 29, 1994, P & S filed a petition with the Illinois Pollution Control Board (IPCB) requesting a variance from meeting the November 1, 1994, compliance date on the grounds that requiring the facility to install Stage II vapor recovery equipment prior to the completion of the upgrading of the roadway and the relocation of the facility's tanks would cause an unreasonable financial hardship. The IPCB is charged under the Illinois Environmental Protection Act with the responsibility of granting variance from regulations issued by the Board whenever it is found that compliance with the regulations would impose an arbitrary or unreasonable hardship upon the petitioner for the variance.

On February 16, 1995, the IPCB granted a variance from Stage II compliance for P & S. The variance begins November 1, 1994 and expires on April 1, 1996, or 60 days after notification to P & S from the IDOT, or the developer of the shopping center, that the widening of the roadway will be abandoned for any reason, whichever is sooner. Given both the high additional cost associated with having to install Stage II equipment twice and the minimal impact on ozone air quality occasioned by temporary noncompliance before April 1, 1996, the IPCB found that requiring P & S to have installed Stage II equipment by November 1, 1994, does constitute an unreasonable hardship. Illinois submitted this variance as a revision to the Illinois ozone SIP on March 28, 1995.

Final Rulemaking Action

The USEPA is approving this SIP revision because the above argument that immediate compliance with the Stage II requirements will cause an unreasonable hardship to P & S is acceptable to USEPA, and that the uncontrolled emissions generated by P & S as a result of the variance will not contribute significantly to ozone formation, given that the variance will expire on or before April 1, 1996.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial amendment and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on September 11, 1995, unless adverse or critical comments are received by August 14, 1995.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw the approval before its effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent action. Please be aware that USEPA will institute another rulemaking document on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises that this action will be effective September 11, 1995.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

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

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

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to a State, local and/or tribal government(s) in the aggregate. The USEPA must also develop a plan with regard to small governments that would be significantly or uniquely affected by the rule.

This rule applies only to a single private sector source located in the Chicago ozone nonattainment area. To the extent that the rules being promulgated by this action will impose any mandate upon this source, such a mandate will not result in estimated annual costs of $100 million or more to that source. The rule also does not impact any governments. Therefore, no action is required under the Unfunded Mandates Act.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by September 11, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Volatile organic compounds.

Dated: June 14, 1995.

David Kee,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(112) to read as follows:

§ 52.720 Identification of plan.

(c) * * *

(112) On March 28, 1995, the State of Illinois submitted a revision to its ozone State Implementation Plan for P & S, Incorporated's facility located in Wood Dale, Du Page County, Illinois. It grants a compliance date extension from Stage II vapor control requirements (35 Ill. Adm. Code 218.586) from November 1, 1994 until April 1, 1996, or 60 days after notification to P & S, Incorporated that the roadway construction complicating the installation of Stage II equipment will be abandoned for any reason, whichever is sooner.

(i) Incorporation by reference.

(A) Illinois Pollution Control Board Final Opinion and Order, PCB 94–299, adopted on February 16, 1995, and effective on February 16, 1995. Certification dated March 1, 1995 of Acceptance by P & S, Incorporated.

[FR Doc. 95–17219 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 70

[CA77–2–7058; AD–FRL–5227–7]

Clean Air Act Final Interim Approval of Operating Permits Program for Glenn County, Lake County, Shasta County and Tehama County, California; Final Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Operating Permits, Lake County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Programs submitted by the California Air Resources Board (CARB) on behalf of Glenn County Air Pollution Control District (APCD), Lake County Air Quality Management District (AQMD), Shasta County AQMD, and Tehama County APCD, California (the four districts) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In addition, EPA is promulgating final approval of a revision to Lake County's portion of the California State Implementation Plan (SIP) regarding synthetic minor regulations for the issuance of federally enforceable state operating permits (FESOP) limiting emissions of criteria pollutants. In order to extend the federal enforceability of state operating permits to hazardous air pollutants (HAP), EPA is also finalizing approval of Lake County's synthetic minor regulations pursuant to section 112(l) of the Clean Air Act (CAA or Act).

EFFECTIVE DATE: August 14, 1995.

ADDRESSES: Copies of the four districts' submittals and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: For information on the Lake County program and SIP, please contact: Ed Pike, (415) 744–1248. For information on the programs for the other districts, please contact: Sara Bartholomew, (415) 744–1170.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Act), and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program. On November 29, 1994, EPA proposed disapproval, or in the alternative, interim approval of the operating permits program for Glenn County, Lake County, Shasta County and Tehama County, California. See 54 FR 60931. The proposed disapproval was due to deficiencies in the districts' upset/breakdown rules. The EPA received public comment on the proposal, and is responding to those comments in this document and in a separate ''Response to Comments'' document that is available in the docket. The EPA also compiled a Technical Support Document (TSD) for each of the four districts, which describes the operating permits program in greater detail.

In this notice EPA is taking final action to promulgate interim approval of the operating permits program for Glenn County APCD, Lake County AQMD, Shasta County AQMD, and Tehama County APCD, California.

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits. Permits issued pursuant to an operating permit program meeting these criteria and approved into the SIP are considered federally enforceable for criteria pollutants. The synthetic minor mechanism may also be used to create federally enforceable limits for emissions of hazardous air pollutants (HAP) if it is approved pursuant to section 112(l) of the Act.

In the November 29, 1994 **Federal Register**, EPA also proposed approval of Lake County's synthetic minor program for creating federally enforceable limits in District operating permits. In this notice, EPA is promulgating approval of the synthetic minor program for Lake County as a revision to Lake County's SIP.

II. Final Action and Implications

A. Analysis of State Submission and Response to Public Comments

EPA received two comment letters on the proposed rulemaking for the four districts, one from the National Environmental Development Associations Clean Air Regulatory Project (''NEDA/CARP''), and one from the American Forest & Paper Association (''AF&PA''). The issues discussed in the November 29, 1994 proposal were not changed as a result of public comment with the exception of the implementation of section 112(g) from the effective date of the title V program. EPA's final action is being revised from the proposed notice with respect to this issue. This change is discussed below along with other issues raised during the public comment period.

1. Section 112(g) Implementation

NEDA/CARP and AF&PA both submitted comments regarding EPA's proposed use of the four California districts' preconstruction permitting program for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a District rule implementing EPA's section 112(g) regulations. In opposition to the proposed action, the commenters argued that the four districts should not, and cannot, implement section 112(g) until: (1) EPA has promulgated a section 112(g) regulation; and (2) the District has a section 112(g) program in place.

EPA received many comments nationally on this issue, and agrees that it is not reasonable to expect the states and districts to implement section 112(g) before a rule is issued. EPA has therefore published an interpretive notice in the **Federal Register** regarding section 112(g) of the Act: 60 FR 8333 (February 14, 1995). This document outlines EPA's revised interpretation of 112(g) applicability prior to EPA's issuing the final 112(g) rule. The action states that major source modifications, constructions, and reconstructions will not be subject to 112(g) requirements until the final rule is promulgated. EPA expects to issue the 112(g) final rule in September 1995.

The action further explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), the four districts must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

For this reason, EPA is proposing to approve the use of the four districts' preconstruction review programs as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by the four districts of rules specifically designed to implement section 112(g). However, since approval is intended solely to confirm that the districts have mechanisms to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period. The EPA is limiting the duration of this proposal to 12 months following promulgation by EPA of the section 112(g) rule.

2. Insignificant Activities

NEDA/CARP and AF&PA both assert that EPA lacks the legal footing for rejecting the districts' present ''insignificant levels,'' and that EPA has no authority to hold out ''suggested'' emission levels as a threshold for receiving full approval.

EPA disagrees that it lacks authority to reject inappropriate or unsupported insignificance levels, or to articulate on a program-by-program basis levels that it definitely would accept. Part 70 allows States to deem certain activities or emission levels insignificant if they are listed in the program submitted to EPA and approved by EPA, but does not grant States authority to create new exemptions without EPA approval. Section 70.4(b)(2) requires the submittal of criteria used to determine insignificant activities, and § 70.5(c) does not allow States to create an insignificant activities permit exemption if the exemption will interfere with the imposition of applicable requirements or the collection of fees. In addition, part 70 explicitly authorizes EPA to approve insignificant activities based on an emission level (§ 70.5(c)). EPA has the legal authority to reject district provisions that contravene these part 70 requirements.

As stated in the proposal, the four districts provided EPA with no criteria or information on the level of emissions of activities on the districts' exemption lists. In addition, the specific insignificant activities provisions submitted by the districts have raised concerns with EPA regarding the districts' ability to ensure that applicable requirements are included in permits. None of the four districts provided EPA with a demonstration to the contrary. For these reasons, the four districts' lists of insignificant activities are not acceptable.

In the proposed rulemaking EPA suggested insignificance levels that the Agency would find acceptable even without a further demonstration. Neither of the commenters specifically addressed these suggested insignificance levels. EPA would like to note that the four districts have the flexibility to modify their regulations and submit criteria for EPA approval of new exemptions, as long as each district demonstrates, or EPA is otherwise satisfied, that such alternative emission levels are insignificant compared to the level of emissions and types of units that are permitted or subject to applicable requirements.

3. Public Petitions to EPA

NEDA/CARP and AF&PA both registered their concern regarding the public petition requirements, notification and other procedural requirements, stating that they believe these requirements will thwart efforts in California to develop market incentive approaches to emissions reductions.

Provisions for public participation, notification and public petitions are required under title V of the Clean Air Act (CAA 502(b)(6) for public participation, and CAA 505(b)(2) for public petitions), and are therefore included in part 70, the regulations that implement title V. EPA believes public participation does not preclude a district from developing market based incentive programs.

4. Enforcement Authorities

NEDA/CARP and AF&PA both contend that EPA should provide specific modifications to the districts' equipment breakdown/upset rules necessary to assure consistency with the intent and the operation of the part 70 rules, instead of proposing disapproval of the programs on this issue.

EPA recommended changes concerning the breakdown/upset rules of the four districts in the TSDs accompanying the proposed rulemaking. Since the proposed rulemaking, EPA has worked with the districts to correct the provisions in the districts' equipment breakdown/upset rules which stood in the way of interim approval. At this time, Glenn and Tehama have corrected these rules satisfactorily, and Lake and Shasta have corrected their rules sufficiently to receive interim approval on this issue. EPA proposed disapproval originally,

however, because the previous exemptions in the rules potentially allowed permitted sources to avoid compliance with certain applicable requirements.

A permitting program that includes rules specifically stating that excess emissions during malfunctions or shutdowns are not violations cannot meet the minimum requirements of § 70.11 (Requirements for enforcement authority). These rules may also compromise the ability of the Districts to issue permits that assure compliance with all applicable requirements. The ability to enforce permits as specified in § 70.11 and issue permits that assure compliance with all applicable requirements are identified as minimum elements for interim approval of title V programs in § 70.4 (d)(3). Programs that do not have the minimum requirements listed in § 70.4 (d)(3) and otherwise do not substantially meet the requirements of part 70 are subject to disapproval.

5. Compliance Certification

NEDA/CARP and AF&PA both contend that EPA has misread its own rule in requiring that the full text of the responsible official's certification be included in both the application content and permit content. They argue that the provision of § 70.5 (d) sets out the *terms and conditions* for any certification of an application form, report or compliance made pursuant to the rules, but does not establish a *signatory statement* that must be attested to by the responsible official to the exclusion of all other statements (emphasis in comment letters).

EPA disagrees with the above comment. Section 70.5 requires that: ''This certification . . . shall *state* that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.'' (emphasis added) This indicates that it is not sufficient merely for the responsible official to sign the certification; the certificate must state that he or she considered the issue carefully. The statement must contain the essential elements of § 70.5 (d), and include the words quoted above. EPA does not rule out having a pre-printed statement on the certificate for convenience.

6. Deviation Reporting

NEDA/CARP and AF&PA both contend that it is necessary for EPA to revise several of its earlier interim approval notices, in which the Agency conditioned final approval on including a definition of ''prompt'' in the state operating permits program, in order to provide a consistent application of the appropriate interpretation of its rules.

In the proposed interim approval notice EPA stated that the four districts' regulations should define the meaning of ''prompt'' as used in the requirement found at 40 CFR 70.6(a)(3)(iii)(B), which requires ''prompt'' reporting of deviations from applicable requirements. The Agency indicated that an acceptable alternative to defining in the regulation what constitutes ''prompt'' is to define ''prompt'' in each individual permit.

NEDA/CARP and AF&PA both support this approach. EPA has consistently asserted that this is an acceptable alternative to defining ''prompt'' in the body of the permitting regulations, and sees no need to revisit past interim approval actions to clarify this interpretation of the definition of what constitutes ''prompt'' reporting of deviations from applicable requirements.

B. Final Action

1. Title V Operating Permits Program

Since the time that EPA proposed disapproval (or interim approval in the alternative), the four districts have each adopted regulations to correct identified disapproval issues based on deficiencies in their enforcement authorities. The primary deficiency lay in provisions in the four districts' equipment breakdown/upset rules that stated that excess emissions during equipment breakdowns or upsets were not violations. This amounted to an *a priori* exemption that eliminated the districts' authority to enforce against certain violations of permit terms or conditions. Section 70.11 requires that districts must have the authority to enforce against all violations of permit terms and conditions. In addition, the Glenn, Lake, and Shasta Districts had rules that stated that excess emissions during equipment shutdown for maintenance were not violations. There is a more detailed discussion of the deficiencies in these rules in the proposed notice. See 54 FR 60931.

In the alternative, EPA proposed to grant source-category limited interim approval to any of these four programs for which, prior to the final disapproval action, the district adopted and CARB submitted to EPA, revisions to the breakdown/shutdown rules that removed the ''no violation'' language. For the breakdown rules, EPA stated that the four districts could either adopt the language of § 70.6 (g) that an emergency constitutes an affirmative defense to noncompliance with technology-based emission limitations, or revise the rules to provide that emissions exceeding emission limitations during equipment breakdowns constitute a violation of district rules.

CARB submitted revisions to each of the four districts' upset/breakdown rules and, except for Tehama County, equipment shutdown rules. Glenn County APCD and Tehama County APCD have removed the ''no violation'' language and adequately corrected the deficiencies. Shasta County and Lake County must each make the additional changes to their rules, as discussed below, before full approval can be granted.

Shasta County AQMD's Excess Emissions Rule. On January 3, 1995 Shasta County adopted revisions to Rule 3:10 to substantially meet EPA's objections. Under the new rule, changed from ''Excusable Malfunctions'' to ''Excess Emissions,'' the ''no violation'' language was removed, as EPA requested. A new paragraph (g) was added to the rule, however, which says that ''Excess emissions during start-up and shutdown shall be considered a violation... if the owner or operator cannot demonstrate that the excess emissions are unavoidable when requested to do so by the APCO.'' It is inaccurate to say that only the APCO can request such a demonstration, since EPA also has enforcement authority over these sources. In addition, 3:10(g) states that the ''APCO may specify for a particular source the amount, time, duration, and under what circumstances excess emissions are allowed during start-up and shut-down.'' The rule is not clear, however, as to where these conditions will be specified, which is not acceptable to EPA because the establishment of such conditions must be subject to a public review process.

EPA is promulgating interim approval of Shasta's program but is requiring additional changes for full approval because the district has substantially, but not fully, revised their rule to meet EPA's objection, as stated in the November 29, 1994 proposal. The changes described below will therefore be necessary for full approval:

Shasta County AQMD must revise paragraph (g) of Rule 3:10 (Excess Emissions) to include a provision that EPA, as well as the APCO, can request a demonstration that the excess emissions are unavoidable. In addition, the rule must clarify that the APCO will specify in the permit the amount, time, duration, and under what circumstances excess emissions are allowed during start-up and shut-down.

Lake County Upset/Breakdown Rule. On November 8, 1994 Lake County

adopted revisions to sections 500 and 510, and added section 512. These changes substantially meet EPA's objection, as set out in the November 29, 1994 notice of proposed rulemaking. Under the revised section 510, the Director will determine whether an enforcement action for an upset or breakdown condition can be pursued based on a number of circumstances. The requirements on sources include, but are not limited to, the following: prompt reporting, minimizing emissions, following good operating practices, shutting down the facility within 24 hours, and not threatening air quality standards or public health. In addition, the maintenance exemption no longer applies if a source violates permitted emission limits.

EPA is promulgating interim approval of Lake's program but is requiring additional changes for full approval because the district has substantially, but not fully, revised their rule to meet EPA's objection, as stated in the November 29, 1994 proposal. The changes described below will therefore be necessary for full approval:

a. Maintenance Exemption. The District's maintenance exemption in section 500 was substantially narrowed by eliminating exemptions for equipment shut-downs that cause violations of permit emission limits. The rule no longer excuses a source that shuts down control equipment for maintenance and violates a numerical emission limit in a part 70 permit. However, the rule does not prohibit sources from violating other types of permit terms (including those that limit emissions, such as a work practice standard or a requirement to continuously apply a control technology) while shutting down control equipment for maintenance. Therefore, the current rule does not allow the District the authority to enforce against all types of violations, as required under § 70.11. The District must further narrow the maintenance exemption in section 500 to state that violations of applicable federal requirements including part 70 permit terms may not be automatically exempted.

b. Citizen Relief. Section 304 of the Clean Air Act expressly provides citizens with enforcement authority for Clean Air Act requirements. Therefore, the District rule must clarify that citizen enforcement, as well as EPA enforcement, of Clean Air Act requirements is not affected by APCO discretion, as expressed in sections 500 and 510, to not pursue an enforcement action.

c. Clarifying Restrictions on Upset/Maintenance Exemption. Section 510 must be clarified because the first and second sentences could be interpreted as expressing two distinct and possibly conflicting options for qualifying for an exemption. The best reading of the District's rule is that conditions ''beyond the reasonable control of the source operator'' must also meet the nine criteria for qualifying for an exemption. EPA believes that these nine criteria are necessary to appropriately limit the scope of the upset/breakdown provisions. For instance, sources should not escape liability for violations due to improper operation or maintenance or that create a public health threat. Therefore, the rule must clearly state that actions that are ''beyond the reasonable control of the source operator'' must also meet the nine criteria for qualifying for an exemption.

The EPA is promulgating interim approval of the operating permits program submitted by CARB on behalf of Glenn County APCD (complete submittal received on December 27, 1993), Lake County AQMD (complete submittal received on March 15, 1994), Shasta County AQMD (complete submittal received on November 16, 1993), and Tehama County APCD (complete submittal received on December 6, 1993), California.

The four districts must make the changes that were specified in the proposed rulemaking, under II.C. *District Title V Interim Approval Issues Common to All Four Districts* and Section III. *Individual District Title V Interim Approval Issues* of the November 29, 1994 FR notice in order to be granted full approval. In addition, Lake County and Shasta County must make the changes specified above.

The part 70 programs submitted by Glenn County, Lake County, Shasta County and Tehama County and approved in this notice apply to all part 70 sources (as defined in the approved program) within the four districts, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815–55818 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until August 13, 1997. During this interim approval period, Glenn County, Lake County, Shasta County and Tehama County, California are protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in the four districts. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If Glenn County, Lake County, Shasta County or Tehama County, California fails to submit a complete corrective program for full approval by February 13, 1997, EPA will start an 18-month clock for mandatory sanctions. If any of the four districts then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will apply sanctions to that district as required by section 502(d)(2) of the Act, which will remain in effect until EPA determines that the district has corrected the deficiency by submitting a complete corrective program.

If EPA disapproves a complete corrective program submitted by either Glenn County, Lake County, Shasta County or Tehama County, EPA will apply sanctions to that district as required by section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date the district or districts has submitted a revised program and EPA has determined that the district or districts corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if Glenn County, Lake County, Shasta County or Tehama County has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to all of the four districts' programs by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for those districts lacking full approval, upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's

program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the four districts' programs for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

2. State Operating Permit Program for Synthetic Minors

EPA is promulgating full approval of Lake County AQMD's synthetic minor operating permit program submitted to EPA by the California Air Resources Board, on behalf of Lake County AQMD. The synthetic minor operating permit program is being approved into Lake County's SIP pursuant to part 52 and the approval criteria set out in the June 28, 1989 **Federal Register** document (54 FR 27282). EPA considers the changes to Lake County's enforcement authority sufficient to grant approval, and expects future changes to clarify this authority under part 70 to also clarify this authority for synthetic minor permits.

EPA will consider all operating permits processed pursuant to Lake County's synthetic minor regulations and consistent with the five approval criteria set out in the June, 1989 document to be federally enforceable with the promulgation of this approval, provided that Lake County submit any permits that it wishes to make federally enforceable to EPA, accompanied by documentation that the procedures approved today have been followed. EPA will expeditiously review any individual permits so submitted to ensure their conformity to the program requirements. (See 57 FR 59931.)

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

III. Administrative Requirements

A. Docket

Copies of the four districts' submittals and other information relied upon for the final interim approval, including two public comments received and reviewed by EPA on the proposal, are contained in docket number CA–NONGR4–94–01–OPS, maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

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

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

C. Regulatory Flexibility Act

The EPA's actions under sections 502, 110, and 112 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: June 19, 1995.

David P. Howekamp,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(217)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c)* * *

(217)* * *

(i) Incorporation by reference.

(B) Lake County Air Pollution Control District.

(1) New Regulation 12, section 12.200 (a4), (c2), (d1), (d2), (d3), (e3), (f1), (f2), (m1), (o1), (p1), (p2), (s3), and sections 12.800–12.850, adopted October 19, 1993.

* * * * *

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by adding paragraphs (h), (l), (bb), and (ee) to the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

California

* * * * *

(h) *Glenn County APCD* (complete submittal received on December 27, 1993); interim approval effective on August 14,

1995; interim approval expires August 13, 1997.

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(l) *Lake County AQMD* (complete submittal received on March 15, 1994); interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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(bb) *Shasta County AQMD* (complete submittal received on November 16, 1993); interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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(ee) *Tehama County APCD* (complete submittal received on December 6, 1993); interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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[FR Doc. 95–17218 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[AD–FRL–5258–3]

Clean Air Act Final Interim Approval of the Operating Permits Program for Clark County, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the title V operating permits program submitted by the Clark County Health District (Clark County) for the purpose of complying with federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. In addition, today's action grants final approval to Clark County's mechanism for receiving delegation of section 112 standards as promulgated.

EFFECTIVE DATE: August 14, 1995.

ADDRESSES: Copies of Clark County's submittals and other supporting information used in developing the final approvals are available for inspection (docket number NV–Clark–95–OPS) during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ed Pike (telephone 415/744–1248), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70, require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

On March 14, 1995, EPA proposed interim approval of the operating permits program for Clark County or, if specified changes were made, full approval. See 60 FR 13683. The County has not modified the program and EPA is promulgating interim approval. The March 14, 1995 **Federal Register** also proposed approval of Clark County's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. EPA requested public comment on the proposals and received one comment letter. In this notice, EPA is promulgating interim approval of Clark County's operating permits program, approving the section 112(g) and section 112(l) mechanisms noted above, and responding to the public comment.

II. Final Action and Implications

A. Response to Public Comment on Proposal

EPA received one public comment letter from the National Environmental Development Association's Clean Air Regulatory Project (''NEDA/CARP''). The letter opposed EPA's proposed approval of the County's preconstruction permitting program as a transitional mechanism for preconstruction review of major air toxics sources under section 112(g) of the Act. The letter also requested that EPA issue an interpretation of the County rule to reduce the number of significant permit modifications that are required by the County. EPA did not receive any other comments on the proposal.

1. Section 112(g) Implementation

The commenter stated that Clark County should not be allowed to use its existing preconstruction program to determine case-by-case maximum achievable control technology (MACT) for new, reconstructed, and modified sources if a transitional program is necessary during an interim period between promulgation of EPA's 112(g) rule and local adoption of a 112(g) rule. The commenter stated that Clark County's preconstruction program may not appropriately address the de minimis levels and offset requirements in the 112(g) rule.

Section 112(g)(2) of the Clean Air Act prohibits the construction, reconstruction, and modification of any major source of hazardous air pollutants after the effective date of a title V program unless the source meets MACT. EPA has published an interpretive notice in the **Federal Register** that interprets section 112(g) to allow State and local agencies to decide whether to delay implementing 112(g) of the Act until EPA promulgates a final 112(g) rule unless they choose to implement the requirements of 112(g) as a matter of state or local law prior to EPA promulgation of the 112(g) rule. In addition, EPA will consider whether an additional delay in the effective date of 112(g) is necessary in the final 112(g) rulemaking. 60 FR 8333 (February 14, 1995). Unless and until EPA provides for such an additional postponement of section 112(g), however, Clark County must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing County regulation. Therefore, EPA is approving the use of the County's preconstruction program as an interim mechanism.

Clark County's preconstruction program will allow the County to select control measures that would meet MACT, as defined in section 112, and incorporate these measures into a federally enforceable preconstruction permit, if necessary during a transition period. EPA believes that the promulgated 112(g) rule will offer the County sufficient guidance for implementing the requirements of 112(g) prior to local adoption of the 112(g) rule. EPA believes that, although Clark County currently lacks a program designed specifically to implement section 112(g), Clark County's preconstruction review program will serve as an adequate implementation vehicle during a transition period.

One consequence of the fact that Clark County lacks a program designed

specifically to implement section 112(g) is that the applicability criteria found in its preconstruction review program may differ from those in the section 112(g) rule. However, whether a particular source change qualifies as a modification, construction, or reconstruction for section 112(g) purposes during any transition period will be determined according to the final section 112(g) rule. EPA expects that Clark County would be able to issue a preconstruction permit containing a case-by-case determination of MACT where necessary for purposes of section 112(g), even if review under its own preconstruction review program would not be triggered, and would use the applicability criteria in the final 112(g) rule to determine whether review is required.

2. Permit Modification Procedures

The commenter stated that Clark County appears to include minor NSR in the definition of title I modification, and requested that EPA ''clarify'' that minor NSR modifications are not title I modifications because title I modifications are not eligible for processing as minor permit modifications. The commenter also requested that the County allow streamlined processing for minor new source review (NSR) changes instead of requiring significant permit modifications.

EPA believes that Clark County's permit revision procedures are consistent with the requirements of part 70 and do not need further clarification. As noted in EPA's proposal and the commenter's letter, Clark County requires a significant modification for all title I modifications. The County's rule includes all New Source Review (NSR) modifications, including minor NSR changes, in the significant modification track. For instance, the County requires significant permit modifications for all changes to case-by-case emissions limits such as NSR limits and for net emissions increases (District Board of Health of Clark County Air Pollution Control Regulations, section 19.5). EPA believes that the best reading of the term title I modification includes minor NSR and is consistent with the County's rule. See 59 FR 44573. In addition, § 70.7(e)(2)(A)(6) allows the County to adopt a more inclusive significant permit modification track than the minimum requirements in part 70. Therefore, EPA is not requiring that the County change its permit revision procedures.

B. Final Action

1. Title V Operating Permits Program

The EPA is promulgating interim approval of Clark County's title V operating permits program as submitted on January 12, 1994 and amended on July 18 and September 21. EPA did not receive any comments on the changes that are necessary for full approval and is requiring that the County implement these changes to obtain full approval. The County must submit enforcement commitments, including commitments to adequately enforce the part 70 program. The County must also ensure that provisions concerning confidential business information consistent with part 70. The County must add a 9-month deadline for issuing early reductions permits to its rules and modify the following provisions: operational flexibility, applicable requirements, and insignificant activities. See 60 FR 13683 (March 15, 1995) for more detailed information regarding approval issues for Clark County.

The scope of this approval of Clark County's part 70 program applies to all part 70 sources (as defined in the approved program) within Clark County, Nevada, except any sources of air pollution over which an Indian tribe has jurisdiction. See, *e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the Act; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until August 13, 1997. During this interim approval period, Clark County is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permits program in Clark County. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If Clark County fails to submit a complete corrective program for full approval by February 13, 1997, EPA will start an 18-month clock for mandatory sanctions. If Clark County then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that Clark County has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of Clark County, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that Clark County has come into compliance. In any case, if, six months after application of the first sanction, Clark County still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Clark County's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date Clark County has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of Clark County, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the Clark County has come into compliance. In all cases, if, six months after EPA applies the first sanction, Clark County has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the Clark County has not submitted a timely and complete corrective program or EPA has disapproved its submitted corrective program.

Moreover, if EPA has not granted full approval to the Clark County program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for the Clark County upon interim approval expiration.

2. County Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Clark County's preconstruction review program found in Sections zero and 19 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and Clark County's adoption

of rules specifically designed to implement section 112(g). EPA is limiting the duration of this approval to 12 months following promulgation by EPA of the section 112(g) rule, as no difficulties were identified with the proposed 12-month deadline for adoption of a 112(g) rule.

3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that Clark County's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of Clark County's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. This program for delegations applies to both existing and future standards but is limited to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of Clark County's submittal and other information relied upon for the final interim approval, including the public comment letter received by EPA, are contained in docket number NV–Clark–95–OPS at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 5, 1995.

Felicia Marcus,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In Appendix A to part 70 the entry for Nevada is amended by adding introductory text and paragraph (c) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nevada

The following district program was submitted by the Nevada Division of Environmental Protection on behalf of:

* * * * *

(c) *Clark County Air Quality Management District:* submitted on January 12, 1994 and amended on July 18 and September 21, 1994; interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

* * * * *

[FR Doc. 95–17123 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 3, 51g and 110

RIN 0905–AE67

Unnecessary Regulations

AGENCY: Centers for Disease Control and Prevention.

ACTION: Final rule.

SUMMARY: As part of the Administration's initiative to eliminate outdated material from the Code of Federal Regulations, the Department is rescinding Parts 3, 51g, and 110 of Part 42. Part 3, on the charging of fees for special statistical services, is redundant, as pertinent statutory text is sufficient. Part 51g relates to a health education grant program which no longer exists. Part 110 is no longer necessary because a statutory provision—to the effect that information and education about vaccines be codified in regulation—was repealed.

EFFECTIVE DATE: Rescission of all three Parts is effective on July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Rebecca B. Wolf, Office of Program Planning and Evaluation, Centers for Disease Control and Prevention, (404) 639–3243.

SUPPLEMENTARY INFORMATION: The Centers for Disease Control and Prevention (CDC) reviewed its existing regulations for continuing usefulness and necessity. CDC found that three regulations are no longer needed. This final rule removes those regulations from the Code of Federal Regulations.

National Center for Health Statistics; Special Statistical Services

Part 3 of Title 42 authorizes the Director of the National Center for Health Statistics to perform, under

certain circumstances, special statistical services requested by a person, firm or corporation. Part 3 also allows the Director to charge a fee for providing these services. However, these authorities are specified clearly in Section 306(b)(4) of the Public Health Service Act. It is not necessary, therefore, to include the same authorities in regulations.

Grants for Health Education—Risk Reduction

Health Education and Risk Reduction grants were incorporated into the Preventive Health and Health Services Block Grant (42 U.S.C. 300w) in 1981. Therefore, separate regulations at 42 CFR Part 51g are not necessary.

Vaccines; Information and Education

The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660) added to the Public Health Service Act a new Section 2126 that required the Secretary of Health and Human Services to develop by rule extensive vaccine information materials for distribution by health care providers to the legal representatives of any child receiving particular vaccines. However, because of concerns expressed by providers and others about the length and readability of the vaccine information materials and the lengthy development and revision process required by the rulemaking process, the Department of Health and Human Services proposed legislation to provide for simplification of the vaccine information materials. In section 708 of Public Law 103–183, the Preventive Health Amendments of 1993, Congress revised Section 2126 to, among other things, delete the requirement for development and revision of the vaccine information materials by rulemaking. This final rule appeals the regulations contained in 42 CFR Part 110 and the vaccine information materials currently contained in Appendix A of 42 CFR Part 110.

New vaccine information materials that were developed under the revised Section 2126 and must now be used were published in the **Federal Register** on June 20, 1994 (59 FR 31888).

Camera-ready copies of the new materials can be obtained by contacting the immunization program in the appropriate State health department.

List of Subjects in 42 CFR Parts 3, 51g, and 110

Health statistics, Grant programs, Public health, Immunization.

Dated: May 15, 1995.

Philip R. Lee,

Assistant Secretary for Health.

Approved: June 30, 1995.

Donna E. Shalala,

Secretary.

For reasons set out in the preamble, and under the Title 42 of the Code of Federal Regulations is amended as follows:

Authority: 42 U.S.C. 242k, 42 U.S.C. 300w, 42 U.S.C. 300aa–26.

PART 3—[REMOVED]

1. Part 3 is removed.

PART 51g—[REMOVED]

2. Part 51g is removed.

PART 110—[REMOVED]

3. Part 110 is removed.

[FR Doc. 95–17105 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–18–M

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42 CFR Part 6

RIN 0905–AE48

Federally Supported Health Centers Assistance Act of 1992

AGENCY: Public Health Service, HHS.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published Monday, May 8, 1995 (60 FR 22530). The regulations relate to liability protection under Public Law 102–501, the ''Federally Supported Health Centers Assistance Act of 1992'', for certain health care professionals and entities.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Richard C. Bohrer, Director, Division of Community and Migrant Health, Bureau of Primary Health Care, Phone: (301) 594–4300.

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of these corrections implement certain provisions of Public Law 102–501, which provides that, subject to its provisions, certain entities and officers, employees and contractors of entities shall be deemed to be employees of the Public Health Service within the exclusive remedy provision of section 224(a) of the Public Health Service Act (the Act). Section 224(a) of the Act provides that the remedy against the United States provided under the Federal Tort Claims Act (FTCA) resulting from the performance of medical, surgical, dental or related functions by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment shall be exclusive of any other civil action or proceeding.

Need for Correction

As published, the final regulation adds a new Part 6 to Chapter 1 of Title 42. 42 CFR Part 6 contains an error at § 6.6(c) which is in need of correction.

Correction of Publication

Accordingly, the publication on May 8, 1995 (60 FR 22530) of the final regulation, FR Doc. 95–11217, is corrected as follows:

§ 6.6 [Corrected]

On page 22532, in the second column, in line 11 of § 6.6(c), the word ''of'' is corrected to read ''and''.

Dated: July 5, 1995.

Gayle Finch,

Acting, Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 95–17106 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–15–P

Proposed Rules

Federal Register
Vol. 60, No. 134
Thursday, July 13, 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 346

RIN 3064–AB62

Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 107 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal Act) amended section 6 of the International Banking Act of 1978 (IBA) to provide that the FDIC shall amend its regulation concerning domestic retail deposit activities by state-licensed branches of foreign banks. The proposal would amend the FDIC's regulations to restrict the amount and types of initial deposits of less than $100,000 which could be accepted by an uninsured state-licensed branch of a foreign bank. The proposal is intended to afford equal competitive opportunity to foreign and domestic banks.

DATES: Comments must be received by September 11, 1995.

ADDRESSES: Send comments to Jerry L. Langley, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to room 400, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. [FAX number: (202) 898–3838; Internet address: comments@fdic.gov]

FOR FURTHER INFORMATION CONTACT: Charles V. Collier, Assistant Director, Division of Supervision, (202) 898–6850; Jeffrey M. Kopchik, Counsel, Legal Division, (202) 898–3872, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

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 proposed rule. Consequently, no information was submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the proposed rule will not have a significant impact on a substantial number of small entities.

Background

Section 107 of the Riegle-Neal Act (Pub. L. 103–328, 108 Stat. 2358) amended section 6 of the IBA (12 U.S.C. 3104) to provide that the FDIC shall amend its regulation concerning domestic retail deposit activity by state-licensed branches of foreign banks (state-licensed branches).[1] Section 6 of the IBA, 12 U.S.C. 3104, concerns the insurance of deposits maintained at domestic branches and subsidiaries of foreign banks. Generally, section 6 provides that United States branches of foreign banks may not accept domestic retail deposits unless the branch is insured by the FDIC. Section 6 goes on to state that, after December 19, 1991, foreign banks may not establish any *de novo* insured branches in the United States. Section 107 of the Riegle-Neal Act added a new subsection (a) to section 6 of the IBA. This new subsection provides that:

> In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.

12 U.S.C. 3104(a).

In revising section 6 of the IBA, Congress made it clear that foreign banks operating in the United States should not have an unfair competitive advantage over domestically chartered banks. Thus, Congress directed the FDIC and the OCC to revise their respective regulations implementing IBA section 6 to ensure that foreign banks do not receive an unfair competitive advantage over United States banks by affording equal competitive opportunities to both.

The Current Regulatory Scheme

Section 346.4 of the FDIC's regulations (12 CFR 346.4) requires that any state-licensed branch which is engaged in ''domestic retail deposit activity'' shall be an insured branch. Section 346.6 provides that a state-licensed branch will not be deemed to be engaged in domestic retail deposit activity which requires the branch to be insured if initial deposits of less than $100,000 are derived solely from certain enumerated sources. The acceptance of initial deposits of $100,000 or more is not considered to be retail deposit activity and, thus, deposit insurance is not required for a state-licensed branch which accepts only these types of initial deposits.

Section 346.6 delineates five categories of depositors from which a state-licensed branch may accept initial deposits of less than $100,000 without triggering the insurance requirement. The five categories of depositors are:

(1) Any business entity, including any corporation, partnership, sole proprietorship, association or trust, which engages in commercial activity for profit;

(2) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(3) Any international organization which is comprised of two or more nations;

(4) Funds received in connection with any draft, check, or similar instrument issued by the branch for the transmission of funds; and

(5) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit.

This section of the regulation also includes a general exception (commonly referred to as the ''*de minimis* exception'') which provides that an uninsured state-licensed branch may accept initial deposits of less than $100,000 from any depositor if the amount of such deposits does not exceed on an average daily basis five percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter.

[1] The Riegle-Neal Act requires the FDIC to consult with the Office of the Comptroller of the Currency (OCC) in the process of making these amendments in order to assure uniformity. The FDIC has worked in close consultation with the OCC in order to achieve substantive uniformity.

The Riegle-Neal Act

In directing the FDIC to amend its regulation to ensure that foreign banking organizations do not have an unfair competitive advantage over United States banking organizations, Congress directed the FDIC to ''consider whether to permit'' an uninsured state-licensed branch of a foreign bank to accept initial deposits of less than $100,000 from a smaller class of depositors than is currently delineated in § 346.6. This suggested smaller class is limited to:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(4) Foreign businesses and large United States businesses;

(5) Foreign governmental units and recognized international organizations; and

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

Moreover, section 107(b)(3) of the Riegle-Neal Act provides that any *de minimis* exception shall not exceed one percent of the average deposits at the branch, as opposed to the current five percent. The FDIC may establish a reasonable transition rule to facilitate any termination of deposit taking activities. See section 107(b)(5)(B) of the Riegle-Neal act.

If these new statutory criteria were adopted verbatim in the FDIC's proposed regulation, they would eliminate an uninsured state-licensed branch's current ability to accept initial deposits of less than $100,000 from any domestic business entity engaged in a commercial activity for profit regardless of size, *i.e.*, only foreign businesses and large United States businesses would be subject to the exception. A verbatim adoption of the new statutory criteria would also remove the current exception for domestic federal or state governmental units. However, uninsured state-licensed branches would still be able to accept initial deposits of less than $100,000 from foreign governmental units.

If Congress had intended the FDIC to adopt these suggested criteria verbatim, it could have so required. However, the statute explicitly provides that the FDIC ''shall consider whether to permit'' an uninsured state-licensed branch to accept initial deposits of less than $100,000 from the enumerated sources. By requiring only that the FDIC consider the statutory criteria, Congress explicitly recognized that the ultimate decision should be made by the FDIC, consistent with the statutory objective set forth in IBA section 6(a), in the exercise of its regulatory discretion and expertise.

Deposit Taking Activities of Uninsured Foreign Branches

The objective set forth by Congress in section 6(a) of the IBA is to afford equal competitive opportunities to foreign and United States banking organizations by ensuring that foreign banks do not receive an unfair competitive advantage. In order to accomplish this task, the FDIC reviewed data compiled by the staff of the Board of Governors of the Federal Reserve System concerning the deposit taking activities of uninsured U.S. branches and agencies of foreign banks. This information is significant in assessing the ability of uninsured branches and agencies to compete with United States banking organizations. As of year-end 1994, uninsured branches and agencies of foreign banks held $386 billion of total deposits. Of that total, approximately 78 percent were accepted from other banks or non-U.S. entities. Of the approximately 22 percent of total deposits accepted from U.S. entities, virtually all were accepted in initial amounts in excess of $100,000. Thus, this data indicates that as a group, uninsured U.S. branches of foreign banks do not compete with United States banking organizations for retail deposits. See also ''Banking in a Global Economy: Economic Benefits to the United States from the Activities of International Banks'', Institute of International Bankers, September, 1993, p. 27 (IIB Study). Generally, foreign banks have established operations in the United States in order to provide services to the international operations of their home country customers. *Id.* at 10.

In addition, the FDIC reviewed a 1994 study conducted by the OCC entitled ''Are Foreign Banks Out-Competing U.S. Banks in the U.S. Market?'' The study found that although the United States market share of subsidiaries, branches and agencies of foreign banks increased during the 1980's and early 1990's, foreign banks operating in the United States consistently performed less well than domestic banks in terms of profitability, efficiency and credit quality. Thus, the OCC study supports the conclusion that United States banking organizations are competing quite well with their foreign counterparts operating in the United States.

Section 107(b)(4) of the Riegle-Neal Act requires that the FDIC consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector, in affording equal competitive opportunities to foreign and United States banking organizations. United States branches and agencies of foreign banks play a substantial role in financing the export of U.S. goods and services to their home countries. See IIB Study, p. 35 (citing 1993 Federal Reserve Bank of New York statistics). Thus, the FDIC must be careful not to disadvantage state-licensed branches in order not to constrict the exportation of U.S. produced goods and services.

The Proposal

The FDIC has given careful consideration to Congress' directive that foreign banking organizations not receive an unfair competitive advantage over United States banking organizations. The FDIC has also considered the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector. To that end, the Corporation has examined in detail the available data and the suggested criteria contained in section 107(b) of the Riegle-Neal Act in comparison to the criteria currently delineated in § 346.6(a) of the FDIC's regulations. In general, the FDIC has concluded that uninsured state-licensed branches of foreign banks do not have an overall unfair competitive advantage over domestic banking organizations. Therefore, the proposal provides that uninsured state-licensed branches of foreign banks may accept initial deposits of less than $100,000 from the six categories of depositors specified in sections 107(b)(2) (A) through (F) of the Riegle-Neal Act. In addition, the proposal expands and adds certain exceptions which are discussed in the following paragraphs. These additional exceptions are consistent with Congress' concern that the FDIC not adversely affect international trade finance.

Section 346.6(a)(3) of the proposed regulation adopts the criterion suggested in section 107(b)(2)(C) of the Riegle-Neal Act that uninsured state-licensed branches should be able to accept initial deposits of less than $100,000 from persons to whom the branch or foreign bank has extended credit or provided

other nondeposit banking services. However, the proposal refines this exception somewhat by specifying that the extension of credit or provision of other nondeposit banking services had to have occurred during the past twelve months. The proposal expands the statutory language to include persons with whom the branch or foreign bank has entered into a written agreement to extend credit or provide other nondeposit banking services within the next twelve months. The Corporation is of the opinion that this addition may be a logical extension of the statutory criterion which would not provide foreign banking organizations with any unfair competitive advantage.

Section 346.6(a)(4) of the proposal adopts the exception contained in section 107(b)(2)(D) of the Riegle-Neal Act concerning foreign businesses and adds thereto ''persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System''. Generally, this would include foreign governments, their agencies and instrumentalities, foreign persons, organizations engaged in international business activities, other Edge corporations, foreign banks, other depository institutions, etc. Once again, the FDIC is of the opinion that the addition of this class of depositors is a natural outgrowth of section 107(b)(2)(D) of the Riegle-Neal Act and would not result in an unfair competitive advantage being given to foreign banking organizations.

Section 107(b)(2)(F) of the Riegle-Neal Act refers to ''persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds''. This language is substantially similar to the exception contained in § 346.6(a)(4) of the existing regulation, except that the current regulation's reference to ''draft, check or similar instrument'' has been replaced by the use of the term ''financial instrument''. Section 346.6(a)(6) of the Proposal includes the exception for funds deposited in connection with the issuance of a financial instrument by the branch for the transmission of funds, but also includes an exception for funds deposited in connection with the transmission of such funds by any electronic means. The addition of this language in the proposal concerning funds deposited in connection with electronic transfers is intended to reflect the FDIC's established interpretation of § 346.6(a)(4) of the current regulation.

Section 107(b)(2) of the Riegle-Neal Act does not contain an exception for deposits from the federal or state governments. Currently, initial deposits of less than $100,000 may be accepted from any state or federal governmental unit. The FDIC has given this matter considerable thought and we are not aware of any evidence which would indicate that the ability to accept initial deposits of less than $100,000 from state or federal governmental units confers any unfair competitive advantage on an uninsured state-licensed branch in comparison to insured domestic banking organizations. The statistics indicate that uninsured foreign branches and agencies accept virtually no deposits from domestic government entities.[2] Thus, it appears to the FDIC that the inclusion of this exception would not provide foreign banking organizations with an unfair competitive advantage over United States banking organizations. The FDIC is proposing a retention of the existing exception for domestic governmental units. Proposed § 346.6(a)(5).

The proposal also amends § 346.6(b), ''Application for an Exemption''. This section has been revised to provide that any request by an uninsured state-licensed branch to be permitted to accept initial deposits of less than $100,000 from a depositor not included in proposed § 346.6(a) shall include information addressing how the acceptance of such deposits will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector, and how it will not give the foreign bank an unfair competitive advantage over domestic banks. Proposed § 345.6(b)(3). The proposal also provides that the FDIC Board of Directors must consider these factors in making its determination. Proposed § 346.6(b)(1).

Commenters are encouraged to provide their views as to whether the exceptions incorporated into the proposed regulation are appropriate in light of the statutory objective set forth in section 6(a) of the IBA. The FDIC also encourages comment on whether additional exceptions should be added, including a discussion of how the proposed exception would satisfy the statutory objective set forth in IBA section 6(a).

[2] More specifically, the statistics indicate that uninsured branches and agencies receive only 2.3% of their total deposits from ''Other Deposits'', the category which would include domestic governmental units. It is fair to assume that domestic governmental units most likely comprise less than the entire 2.3%. The figures do not indicate what percentage of the 2.3% are initial deposits of less than $100,000, but once again it is reasonable to assume that it is less than the total.

Definitions

The proposal would expand § 346.1 to include definitions of the terms ''foreign business'', ''large United States business'', and ''person''. Proposed §§ 346.1 (s) through (u). In addition, the existing definitions of ''foreign bank'', ''initial deposit'' and ''affiliate'' contained in §§ 346.1 (a), (k) and (o) would be amended. Proposed §§ 346.1 (a), (k) and (o). The FDIC is of the opinion that the addition of these definitions would assist the industry in interpreting the regulation in a clear and consistent manner.

The proposal would define ''large United States business'' as any entity, including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of the United States or any state thereof and: (1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or (2) Has annual gross revenues in excess of $1,000,000 for the fiscal year immediately preceding the initial deposit. The FDIC believes that this definition would meet Congress' concern expressed in IBA section 6(a) without having a negative impact on the availability of credit to all sectors of the United States economy.

The proposed definition of ''foreign business'' would include businesses organized under the laws of a foreign country, their United States subsidiaries and businesses owned or controlled by foreign nationals. This definition would encompass the ''plain meaning'' definition of foreign business as well as accommodating businesses organized under United States law, but owned or controlled by foreign entities or foreign nationals. These businesses may prefer to do business with a branch of a foreign bank from their home country regardless of whether the branch is FDIC insured.

The FDIC requests comment on the proposed definitions. We also request comment on whether certain of the proposed definitions are unnecessary or whether others should be added.

De Minimis Exception and Transition Rule

Section 107(b)(5) of the Riegle-Neal Act permits the FDIC to establish ''reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the date of [its enactment]''. The proposal would provide for a five year transition period, beginning on the effective date

of the final regulation. Proposed § 346.6(c). Under this transition proposal, uninsured state-licensed branches would have five years to reclassify initial deposits received prior to the effective date of the final regulation into one of the new exceptions contained in proposed §§ 346.6(a) (1) through (6) or the new one percent *de minimis* exception contained in proposed § 346.6(a)(7). In the case of a time deposit, the branch would have until the first maturity date to reclassify the deposit. In the event that the existing deposit does not qualify under any of the new exceptions and cannot be included in the new one percent *de minimis* category, the branch would be required to close the account and divest the deposit.

Initial deposits received on or after the effective date of the final regulation would be required to qualify under one of the new exceptions or may be accepted under the new one percent *de minimis* exception. The FDIC wishes to make it clear that the new one percent *de minimis* exception would apply prospectively and would overlap with the existing five percent *de minimis* exception during the five year transition period.

Other Issues

The FDIC is considering including several other exceptions which have not been included in the proposed regulation. Proposed § 346.6(a)(3) delineates the exception for persons to whom the branch or foreign bank has or has agreed to extend credit or provide other nondeposit banking services. The FDIC is considering expanding this exception to include affiliates of the depositor as well as any financial institution affiliate of the branch or foreign bank. The FDIC requests comment on whether this exception would be desirable and consistent with the Congressional objective set forth in IBA section 6(a). Detailed comments concerning the phrasing of such an exception, including the definition of the term ''financial institution affiliate'' are requested.

The FDIC is also considering adding a new exception that would permit a state-licensed uninsured branch to accept initial deposits of less than $100,000 from immediate family members of individuals that qualify for an exception pursuant to proposed §§ 346.6(a) (1) through (6). Once again, commenters are requested to address the effect of such an exception of the competitive opportunities between United States and foreign banking organizations as well as credit availability to all sectors of the United States economy.

List of Subjects in 12 CFR Part 346

Bank deposit insurance, Foreign banking, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, the FDIC Board of Directors hereby proposes to amend 12 CFR part 346 as follows:

PART 346—[AMENDED]

1. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

2. Section 346.1 is amended by adding a sentence to the end of paragraph (a), revising the first sentence of paragraph (k), revising paragraph (o), and adding paragraphs (s) through (u) to read as follows:

§ 346.1 Definitions.

* * * * *

(a) * * * For purposes of § 346.6, the term foreign bank does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Corporation pursuant to the Act.

* * * * *

(k) *Initial deposit* means the first deposit transaction between a depositor and the branch on or after [the effective date of the final regulation]. * * *

* * * * *

(o) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity. An entity shall be deemed to ''control'' another entity if the entity directly or indirectly owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

* * * * *

(s) *Foreign business* means any entity, including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of a country other than the United States or any United States entity which is owned or controlled by an entity which is organized under the laws of a country other than the United States or a foreign national.

(t) *Large United States business* means any entity including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust which is organized under the laws of the United States or any state thereof, and:

(1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or

(2) Has annual gross revenues in excess of $1,000,000, for the fiscal year immediately preceding the initial deposit.

(u) *Person* means an individual, bank, corporation, partnership, trust, association, foundation, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

3. Section 346.6 is revised to read as follows:

§ 346.6 Exemptions from the insurance requirement.

(a) *Deposit activities not requiring insurance.* A state branch will not be deemed to be engaged in a domestic retail deposit activity which requires the branch to be an insured branch under § 346.4 if initial deposits in an amount of less than $100,000 are derived solely from the following:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services within the past twelve months or has entered into a written agreement to provide such services within the next twelve months;

(4) Foreign businesses, large United States businesses, and persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System, 12 CFR 211.4(e)(1);

(5) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of any of the foregoing, and recognized international organizations;

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds or the transmission of such funds by any electronic means; and

(7) Any other depositor but only if the amount of deposits under this paragraph

(a)(7) does not exceed on an average daily basis one percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies or wholly owned subsidiaries of the bank and the branch does not solicit deposits from the general public by advertising, display of signs, or similar activity designed to attract the attention of the general public. A foreign bank which has more than one state branch in the same state may aggregate deposits in such branches (excluding deposits of other branches, agencies or wholly owned subsidiaries of the bank) for the purpose of this paragraph (a)(7). The average shall be computed by using the sum of the close of business figures for the last 30 calendar days ending with and including the last day of the calendar quarter divided by 30. For days on which the branch is closed, balances from the last previous business day are to be used.

(b) *Application for an exemption.* (1) Whenever a foreign bank proposes to accept at a state branch initial deposits of less than $100,000 and such deposits are not otherwise excepted under paragraph (a) of this section, the foreign bank may apply to the FDIC for consent to operate the branch as a noninsured branch. The Board of Directors may exempt the branch from the insurance requirement if the branch is not engaged in domestic retail deposit activities requiring insurance protection. The Board of Directors will consider the size and nature of depositors and deposit accounts, the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy, whether the exemption would give the foreign bank an unfair competitive advantage over United States banking organizations, and any other relevant factors in making this determination.

(2) Any request for an exemption under this paragraph (b) should be in writing and authorized by the board of directors of the foreign bank. The request should be filed with the Regional Director of the Division of Supervision for the region where the state branch is located.

(3) The request should detail the kinds of deposit activities in which the branch proposes to engage, the expected source of deposits, the manner in which deposits will be solicited, how this activity will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector, that the activity will not give the foreign bank an unfair competitive advantage over United States banking organizations and any other relevant information.

(c) *Transition period.* An uninsured state branch may maintain a deposit lawfully accepted prior to [effective date of final regulation]:

(1) If the deposit qualifies pursuant to paragraph (a) or (b) of this section; or

(2) No later than until:

(i) Five years from [effective date of final regulation]; or

(ii) In the case of a time deposit, the first maturity date of the time deposit.

By order of the Board of Directors, dated at Washington, D.C., this 27th day of June, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–17140 Filed 7–12–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–52–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require a visual inspection to detect damage to the flexible fuel drain line of the auxiliary power unit (APU), and replacement of the drain line, if necessary. This proposal also would require installation of two additional clamps to secure the flexible fuel drain line to the fuel supply line of the APU. This proposal is prompted by reports of electrical arcing between the flexible fuel drain line and the APU starter motor. The actions specified by the proposed AD are intended to prevent such electrical arcing, which could result in a fire in the APU.

DATES: Comments must be received by August 21, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–52–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD has advised that it has received reports of electrical arcing between the flexible fuel drain line of the auxiliary power unit (APU) and the positive terminal of the APU starter motor. Investigation has revealed that the flexible fuel drain line can move and contact the positive terminal of the APU starter motor, which may result in electrical arcing during an APU start. This condition, if not corrected, could result in electrical arcing and a subsequent fire in the APU.

Fokker has issued Service Bulletin SBF100–49–023, dated November 20, 1992, which describes procedures for a one-time visual inspection to detect damage to the APU flexible fuel drain line, including the braiding, and replacement of the drain line, if necessary. The service bulletin also describes procedures for the installation of two additional clamps to secure the flexible fuel drain line to the fuel supply line, which is in a fixed position. The clamps will prevent the flexible fuel drain line from contacting the positive terminal of the APU starter motor, and subsequently causing electrical arcing in the APU. The RLD classified this service bulletin as mandatory and issued Netherlands airworthiness directive BLA 92–139, dated November 27, 1992, in order to assure the continued airworthiness of these airplanes in the Netherlands.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time visual inspection to detect damage to the APU flexible fuel drain line and its braiding, and replacement of the drain line with a new or serviceable drain line, if necessary. The proposed AD also would require the installation of two additional clamps to secure the flexible fuel drain line to the fuel supply line. The actions would be required to be accomplished in accordance with the service bulletin described previously.

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

The FAA estimates that 63 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $75 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $12,285, or $195 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

FOKKER: Docket 95–NM–52–AD.

Applicability: Model F28 Mark 0100 series airplanes, serial numbers 11244 through 11405 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing between the flexible fuel drain line and starter motor positive terminal of the auxiliary power unit (APU), which could lead to a fire in the APU; accomplish the following:

(a) Within 14 days after the effective date of this AD, perform a visual inspection of the auxiliary power unit (APU) to detect damage of the flexible fuel drain line and its braiding,

in accordance with Fokker Service Bulletin SBF100–49–023, dated November 20, 1992.

(1) If no damage is detected, prior to further flight, install two additional clamps on the fuel supply line and flexible fuel drain line, in accordance with the service bulletin.

(2) If any damage is detected, prior to further flight, replace the flexible fuel drain line with a new or serviceable drain line, and install two additional clamps on the fuel supply line and flexible fuel drain line, in accordance with the service bulletin.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on July 7, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–17158 Filed 7–12–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–038–FOR]

Maryland Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Maryland regulatory program (hereinafter the ''Maryland program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Maryland rules and statutes pertaining to the Small Operators Assistance Program (SOAP). The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.D.T., August 14, 1995. If requested, a public hearing on the proposed amendment will be held on August 7, 1995. Requests to speak at the hearing must be received by 4:00 p.m., E.D.T., on July 28, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Acting Director, at the address listed below.

Copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

George Rieger, Acting Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

FOR FURTHER INFORMATION CONTACT: George Rieger, Acting Director, Harrisburg Field Office, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 18, 1982, **Federal Register** (47 FR 7214). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 920.15 and 920.16.

II. Description of the Proposed Amendment

By letter dated June 16, 1995 (Administrative Record No. MD–572.00), Maryland submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. The provisions of the Annotated Code of Maryland (Code) and the Code of Maryland Regulations (COMAR) that Maryland proposes to amend are: 7–505(c)(4) and 7–515 of the Code which implements the provisions of House Bill 945 and COMAR 08.20.16.02A, 08.20.16.03A and B, 08.20.16.08A–C.

Specifically, Maryland proposes to repeal alternative permit procedures for small coal mining operations of two acres or less and authorize the Department of Natural Resources to assume the cost for additional specified application items. Additionally, Maryland proposes to change the eligibility for assistance limit on annual coal production from 100,000 tons to 300,000 tons. The production limit applies to the 12 months immediately following the date on which the permit was originally issued. The percentage of ownership for production purposes is also increased from 5 percent to 10 percent.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comment son 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 Maryland program.

Written Comments

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

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., E.D.T. on July 28, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested a sit will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish

to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

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

National Environmental Policy Act

In environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject 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 920

Interfovernmental relations, Surface mining, Underground mining.

Dated: July 5, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 95–17168 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 57

Hearing on the Provision on Early Intervention and Special Education Services to Eligible DoD Dependents in Overseas Areas

AGENCY: Department of Defense.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given of a forthcoming hearing on draft revised DoD Instruction 1342.12, which was published as a proposed rule entitled ''Provision of Early Intervention and Special Education Services to Eligible DoD Dependents in Overseas Areas'' (32 CFR part 57, FR 28362) on May 31, 1995. This notice formally announces this hearing.

DATES: The hearing will be held on August 4, 1995, 0800–1200.

ADDRESSES: Department of Defense Education Activity (DoDEA), 4040 N. Fairfax Dr., 9th Floor Conference Room, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Posante, Special Education Coordinator, (703) 696–4493, extension 147.

SUPPLEMENTARY INFORMATION: Prior to 1991 the Department of Defense Dependents Schools (DoDDS) was required by Public Law 95–561, Defense Dependents' Education Act of 1978, to adhere to the provisions of the Education of All Handicapped Children's Act Public Law 94–142. With the enactment of Public Law 102–119, Individuals With Disabilities Education Act Amendments of 1991, DoD was required to implement a program of early intervention services for eligible DoD dependent children with disabilities from birth through 2 years of age and to make revisions to the Department of Defense's existing special education program for eligible DoD dependent children with disabilities, ages 3 through 21. This proposed rule will, if published as a final rule, update the existing rule on special education and implement an early intervention program to conform to the legislative mandates. Oral presentations will be limited to 10 minutes. Individuals wishing to make a presentation must indicate their intent to present and submit a written text of comments to Dr. Posante by July 28. Written submissions to accompany oral presentations may be submitted by FAX (703) 696–8924 or mail at the above address and must be received by July 28, 1995. To make a reservation to attend the public hearing, members of the public are requested to call Dr. Posante at (703) 696–4493, extension 147 by July 28, 1995.

Dated: July 7, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–17116 Filed 7–12–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AC19

National Park System Units in Alaska

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; re-opening of public comment period.

SUMMARY: The proposed rule would establish National Park Service regulations to implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). The proposed regulations are necessary to establish procedures for administering the statutory rights and preferences established by section 1307 for certain persons to conduct revenue-producing visitor services in certain units of the National Park System located in the State of Alaska. Particularly, this rule would provide guidance in the solicitation, award and renewal of Alaska visitor service authorizations. This rulemaking, the substance of which was printed as a proposed rule on April 25, 1995 (60 FR 20374), extends the comment period for another 60 days to allow additional review and comment by interested groups and persons.

DATES: Comments will be accepted until September 11, 1995.

ADDRESSES: Comments should be addressed to Regional Director, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Docket 1307, Anchorage, AK 99503–2892.

FOR FURTHER INFORMATION CONTACT: Chief of Concessions Management, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, AK 99503–2892.

SUPPLEMENTARY INFORMATION:

Extended Comment Period: Special Concessions Regulations—Visitor Services

This document announces a 60-day re-opening of the comment period for the proposed Special Concessions Regulations—Visitor Services, that was published in the **Federal Register** on April 25, 1995, (60 FR 20374). The initial comment period expired on June 26, 1995. Many comments received during the initial comment period requested additional time to review the proposed regulations. Accordingly, the comment period for the proposed rule is hereby extended for an additional 60 days.

Dated: July 7, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17086 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL101–1–6689b; FRL–5250–1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the State Implementation Plan (SIP) revision request submitted by the State of Illinois on July 29, 1994. This submittal addresses the Federal Clean Air Act requirement to submit contingency measures for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM) for the areas designated as nonattainment for the PM National Ambient Air Quality Standards In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before August 14, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

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

Dated: June 14, 1995.

David Kee,

Acting Regional Administrator.

[FR Doc. 95–17217 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL123–1–6976b; FRL–5252–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve the March 28, 1995, Illinois State Implementation Plan (SIP) revision request which consists of a variance from 35 Illinois Administrative Code (IAC) 218.586, the regulations for Stage II vapor recovery, for P & S, Incorporated's (P & S) facility located in Wood Dale, DuPage County, Illinois. This variance begins on November 1, 1994, and will ultimately expire on April 1, 1996. The granting of this variance is approvable because P & S has demonstrated that immediate compliance with the requirements at issue would impose an arbitrary and unreasonable hardship. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw the approval before its effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another rulemaking document

on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before August 14, 1995. If no such comments are received, USEPA hereby advises that the direct final approval will be effective September 11, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the Illinois submittal are available for public review during normal business hours, between 8 a.m. and 4:30 p.m., at the above address. A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6976), room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

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

Dated: June 14, 1995.

David Kee,

Acting Regional Administrator.

[FR Doc. 95–17220 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[AD-FRL–5258–6]

Clean Air Act Proposed Interim Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, Pinal County Air Quality Control District, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes interim approval of the title V operating permits program submitted by the State of Arizona, comprised of programs from the Arizona Department of Environmental Quality (ADEQ), the Maricopa County Environmental Services Department, (Maricopa), the Pima County Department of Environmental Quality (Pima), and the Pinal County Air Quality Control District (Pinal) for the purpose of complying with federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by August 14, 1995.

ADDRESSES: Comments should be addressed to Regina Spindler, Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the State and county submittals and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

FOR FURTHER INFORMATION CONTACT: Regina Spindler (telephone: 415/744–1251), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

As required under title V of the Clean Air Act (Act) as amended (1990), EPA has promulgated rules that define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 CFR part 70 (part 70). Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit title V programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

II. Proposed Action and Implications

A. Analysis of State Submission

The analysis contained in this notice focuses on specific elements of the Arizona State and county agencies' title V operating permits program that must be corrected to meet the minimum requirements of 40 CFR part 70. The full program submittals, the Technical Support Documents (TSD), which contain a detailed analysis of the submittals, and other relevant materials are available for inspection as part of the public dockets. The dockets may be viewed during regular business hours at the address listed above.

1. Title V Program Support Materials

The Arizona title V operating permits program was submitted on November 15, 1993 by the Arizona Department of Environmental Quality. The Director of ADEQ, the State Governor's designee, requested approval of Arizona's title V operating permits program, comprised of programs from ADEQ, Maricopa, Pima, and Pinal to provide coverage for the entire geographic area of the State of Arizona, excluding lands located within the exterior boundaries of Indian Reservations. Additional material was submitted by ADEQ on March 14, 1994; May 17, 1994; March 20, 1995; and May 4, 1995. Additional information was submitted by Maricopa on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995. Additional information was submitted by Pima on December 15, 1993; January 27, 1994; April 6, 1994; and April 8, 1994. On Pinal's behalf, ADEQ submitted a revision to Pinal's program on August 16, 1994. The programs that comprise the Arizona program all meet the requirements of section 70.4 for program submittal, including a program description, permitting program documentation, the legal opinion of the Attorney General and the attorneys of the county air pollution control agencies, and fully adopted implementing and supporting regulations. An implementation agreement is currently being developed between EPA and each of the Arizona agencies.

2. Title V Operating Permit Regulations and Program Implementation

The permitting rules/regulations submitted by the Arizona State and county agencies are very similar. Therefore, the discussion below is applicable to all four programs. The ADEQ regulations adopted or revised on October 8, 1993 to implement title V include Article 1; Article 3, excluding sections R18–2–311 through R18–2–314, R18–2–316, and R18–2–332; Article 5; and Appendix 1; of Chapter 2 of Title 18 of the Arizona Administrative Code (AAC). Maricopa's title V regulations, adopted or revised on November 15, 1993, include Rules 100, 110, and 120 of Regulation I; Rule 200, except sections 305, 306, 407, and 408, Rules 210, 230, and 280 of Regulation II; Rule 370 of Regulation III; Rule 400 of Regulation IV; and Appendix B of the Maricopa Air Pollution Control Regulations (MAPC Regulations). Pima's title V regulations, adopted or revised on September 28, 1993 include Chapter 17.04; Chapter 17.12, except sections 17.12.030, 040, 050, 060, 070, 360, Article IV, and Article V; Article IX of Chapter 17.16; Chapter 17.20; Chapter 17.24; and Chapter 17.28 of Title 17 of the Pima County Code (PCC). Pinal's title V regulations adopted or revised on November 3, 1993 include Article 3 of Chapter 1; Articles 1, 2, 4, 5, 6, and 7 of Chapter 3; Article 1 of Chapter 7; Article 1 of Chapter 8; Article 1, Sections 9–1–070 and 9–1–080 of Chapter 9; and Appendix A of the Pinal County Code of Regulations (PCR).

The regulations of the Arizona State and county agencies substantially meet the requirements of 40 CFR part 70, §§ 70.2 and 70.3 for applicability; §§ 70.4, 70.5, and 70.6 for permit content, including operational flexibility; § 70.7 for public participation and minor permit modifications; § 70.5 for criteria that define insignificant activities; § 70.5 for complete application forms; and § 70.11 for enforcement authority. Although the regulations substantially meet part 70 requirements, there are several deficiencies in each program that are outlined under section II.B. below as interim approval issues and further described in the Technical Support Documents.

The Arizona State and county permitting programs combine the requirements for operating permits and construction permits. Sources that modify or construct must first obtain a permit that contains both preconstruction and operating requirements. Existing sources must apply for an operating permit. Therefore, there is one set of procedures that apply to the issuance of these integrated preconstruction/operating permits. In addition, the programs address permitting requirements for two classes of permits. ADEQ distinguishes between Class I and Class II permits, Maricopa and Pima between Title V and non-Title V permits, and Pinal between Class A and Class B permits. ADEQ's Class I permits and Maricopa's Title V permits are required only for major sources, acid rain sources, solid waste incinerators, and any other sources in a source category designated by EPA to obtain title V permits. Pima County and Pinal County require major sources, acid rain sources, solid waste incinerators, any other sources in a source category designated by EPA, and any sources subject to an NSPS or NESHAP requirement under sections 111 and 112, respectively (including non-major sources), to obtain a Title V permit (Pima) or Class A permit (Pinal). This interim approval addresses only the elements of the Arizona program that pertain to operating permit program requirements for part 70 sources. The EPA action under part 70 will not apply to the State and county operating permit programs for non-part 70 sources or to State and county preconstruction review programs. This interim approval applies only to that part of the program that provides for the issuance of Class I operating permits (in ADEQ), Title V operating permits (in Maricopa and Pima), and Class A operating permits (in Pinal).

a. Excess Emissions Provisions. ADEQ's regulations (R18–2–310) provide sources with an affirmative defense to an enforcement action taken for excess emission violations that occur during startup, shut down, unavoidable breakdown of process or control equipment, an upset of operations, or if greater or more extended excess emissions would result unless scheduled maintenance is performed, provided the source takes certain steps. Fully approvable part 70 programs may only allow for an affirmative defense for violations that are the result of an emergency as defined in § 70.6. Therefore, in order to receive full approval of its program, ADEQ must limit its excess emissions provision in R18–2–310 by clarifying that it is not applicable to part 70 sources. Maricopa, Pima, and Pinal did not submit excess emissions provisions as part of their title V programs, though similar provisions may exist in county regulations. Because Arizona State law requires county regulations for permitting sources to be identical to the regulations developed by ADEQ (see Arizona Revised Statutes (ARS) section 49–480(B)), EPA expects that, if county regulations contain such provisions, the county agencies will amend them to conform to ADEQ regulations, and include the condition that such provisions may not apply to part 70 sources.

b. Insignificant Activities. Section 70.4(b)(2) requires states to include in their part 70 programs any criteria used to determine insignificant activities or emission levels for the purposes of determining complete applications. Section 70.5(c) states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.5(c) also states that EPA may approve, as part of a state program, a list of insignificant activities and emissions levels which need not be included in permit applications. Under part 70, a state must request and EPA must approve as part of that state's program any activity or emission level that the state wishes to consider insignificant. Part 70, however, does not establish appropriate emission levels for insignificant activities, relying instead on a case-by-case determination of appropriate levels based on the particular circumstances of part 70 program under review.

ADEQ's definition of ''insignificant activity'' (R18–2–101(54)) includes a list of activities as well as a provision for the Director to determine, without EPA approval, that other activities are insignificant. The definition prohibits any activity that is subject to an applicable requirement from being considered insignificant and requires all insignificant activities to be listed in the permit application. ADEQ did not provide EPA with criteria used to develop the list of activities or with information on the level of emissions of the listed activities. In addition, ADEQ's definition does not provide for prior EPA approval of any other (unlisted) activity or emission level that the Director considers insignificant, as required by part 70. Therefore, EPA cannot propose full approval of ADEQ's definition as the basis for determining insignificant activities.

MAPC Regulation II, Rule 200, Section 303.3(c) contains the list of activities that are exempt from part 70 permitting. The applicants must list these activities in permit applications but need not provide emissions data (per Regulation II, Rule 210, Section 301.5(g)). Maricopa did not provide EPA with criteria used to develop the list of

activities, information on the level of emissions from the activities, nor with a demonstration that these activities are not likely to be subject to an applicable requirement. Therefore, EPA cannot propose full approval of the list as the basis for determining insignificant activities.

Pima's regulation (§ 17.12.160.E.7) provides that emission units that do not emit more than 2.4 lbs/day of VOC or 5.5 lbs/day of any other regulated air pollutant are considered insignificant but must be listed in the application. The EPA believes, as discussed below, that these levels are acceptable for defining insignificant activities with regard to units that emit criteria pollutants, provided no such unit is subject to an applicable requirement. The EPA believes, however, that these levels may not be acceptable for units that emit hazardous air pollutants. Pima did not provide EPA with a demonstration that these emission levels are insignificant compared to the level of hazardous air pollutant emissions from units that are required to be permitted activities nor with a demonstration that these activities are not likely to be subject to an applicable requirement. Therefore, EPA cannot propose full approval of these levels as the basis for determining hazardous air pollutant-emitting insignificant activities.

Pinal's definition of insignificant activities (§ 1–3–140(74)(a)) provides that activities that account for less than 1% of the source's total existing emissions of criteria air pollutants or less than 200 pounds per year of regulated air pollutants, whichever is less, are insignificant. The definition also includes a list of activities that are considered insignificant regardless of emission rates. Pinal prohibits activities that are subject to any applicable requirement from being considered insignificant and all insignificant activities must be listed in the application. EPA believes that the 200 pound per year emission level is acceptable for defining insignificant activities for units that emit criteria pollutants, but may not be adequate for units that emit hazardous air pollutants whose section 112(g) deminimis values are below this level (see discussion below). Pinal did not provide EPA with a demonstration that this emission level would be sufficient to define all hazardous air pollutant-emitting insignificant activities. Neither did Pinal provide EPA with criteria used to develop its list of insignificant activities or information on the level of emissions from these activities. Therefore, EPA cannot propose full approval of Pinal's definition as the basis for determining insignificant activities.

For other state programs, EPA has proposed to accept, as sufficient for full approval, emission levels for insignificant activities of 2 tons per year for criteria pollutants and the lesser of 1000 pounds per year, section 112(g) de minimis levels, or other title I significant modification levels for HAPs and other toxics (40 CFR 52.21(b)(23)(i)). The EPA believes that these levels are sufficiently below applicability thresholds for many applicable requirements to assure that no unit potentially subject to an applicable requirement is left off a title V application and are consistent with current permitting thresholds in Arizona. The EPA is requesting comment on the appropriateness of these emission levels for determining insignificant activities in Arizona. This request for comment is not intended to restrict the ability of the state or county agencies to propose and EPA to approve other emission levels if the agencies demonstrate that such alternative emission levels are insignificant compared to the level of emissions from and types of units that are permitted or subject to applicable requirements.

c. Definition of Title I Modification. The permitting regulations for the Arizona State and county agencies do not contain definitions of ''title I modification.'' ADEQ and Pinal, however, have indicated in their program descriptions and response-to-comments documents that they do not interpret ''title I modification'' to include changes reviewed under a minor source preconstruction review program (''minor NSR changes''). Maricopa did not address its interpretation of this term and Pima has stated, in a letter from David M. Esposito, Director of the Pima County Department of Environmental Quality, dated April 6, 1994, that Pima considers permit revisions requested by minor sources subject to preconstruction review requirements to be modifications under title I of the Act.

In an August 29, 1994 rulemaking proposal, EPA explained its view that the better reading of ''title I modifications'' includes minor NSR. However, the Agency solicited public comment on whether the phrase should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under Title I of the Act. (59 FR 44572, 44573). This would include State preconstruction review programs approved by EPA as part of the State Implementation Plan under section 110(a)(2)(C) of the Clean Air Act.

The August 29, 1994 action proposed to, among other things, allow State programs with a more narrow definition of ''title I modifications'' to receive interim approval (59 FR 44572). The Agency stated that if, after considering the public comments, it continued to believe that the phrase ''title I modifications'' should be interpreted as including minor NSR changes, it would revise the interim approval criteria as needed to allow states with a narrower definition to be eligible for interim approval.

The EPA has not yet taken final action on the August 29, 1994 proposal. However, in response to public comment on that proposal, the Agency has concluded that the definition of ''title I modifications'' is best interpreted as not including changes reviewed under minor NSR programs or changes that trigger the application of a pre-1990 NESHAP requirement. This decision was noted in a June 20, 1995 letter from Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to Congressman John D. Dingell, and will be included in a supplemental rulemaking proposal that will be published this summer. Thus, the ADEQ, Maricopa, and Pinal programs' definition of ''title I modification'' can be considered fully consistent with part 70. Because nothing in part 70 bars a State from considering minor NSR to be a title I modification, Pima's intent to consider permit revisions requested by minor sources subject to preconstruction review requirements to be title I modifications is also fully consistent with part 70.

d. Conditional Orders. ADEQ has authority under ARS sections 49–437 through 49–441 to a grant a conditional order that allows a source to vary from any provision of ARS Title 49, Chapter 3, Article 2, any rule adopted pursuant to Article 2, or any requirement of a permit issued pursuant to Article 2. The county agencies also have authority, under ARS sections 49–491 through 49–495, to grant conditional orders to vary from rules and permit conditions.

The EPA regards these State and county conditional order provisions as wholly external to the program submitted for approval under part 70, and consequently is proposing to take no action on these provisions of State law. The EPA has no authority to approve provisions of state law, such as the conditional order provisions referred to, that are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a

federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. A part 70 permit may be issued or revised (consistent with part 70 permitting procedures), to incorporate those terms of a conditional order that are consistent with applicable requirements. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a conditional order. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance ''shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.''

The State and county agencies in Arizona have limited the conditional order provisions in the State statute through regulation. ADEQ regulations (R18–2–328(A)) provide that a conditional order may be granted only for non-federally enforceable conditions of a permit and that issuance of the conditional order may not constitute a violation of the Act. Maricopa (Rule 120, Section 401) and Pima (Section 17.28.100(A)) limit issuance of conditional orders in the same way and in addition state that the Control Officer may only grant a conditional order if she/he finds that the source is not a title V source. Pinal (section 3–4–420(A)) provides that no person holding a part 70 permit shall be eligible for a conditional order; however, Pinal must also ensure that the Control Officer may not grant a conditional order that allows a source to vary from the requirement to obtain a part 70 permit. This is listed below in Section II.B. as an interim approval issue for Pinal. While provisions of the State and county rules sufficiently limit issuance of conditional orders (with the exception noted for Pinal), there are additional changes that should be made to the rules. As discussed above, no conditional orders will be issued that allow a source to vary from federally enforceable conditions of a permit, and in the counties, conditional orders will not be issued to title V sources. Therefore, there is no need to submit conditional orders to EPA for review, as provided for in the State and county (except Pima) regulations (ADEQ: R18–2–328(E)(5)(b), Maricopa: Rule 120, Section 405.5(b), Pinal: Section 3–4–450(D)(2)). The EPA recommends removing these provisions.

e. ''Prompt'' Reporting of Deviations. The part 70 operating permits regulation requires prompt reporting of deviations from permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Although state and county permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit. The EPA believes that prompt should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under § 70.6(a)(3)(iii)(A). Where ''prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations. Maricopa, Pima, and Pinal have not defined ''prompt'' in their programs with respect to reporting of deviations. ADEQ has defined ''prompt'' as within 2 working days of the time when the deviation occurred (R18–2–306(A)(5)(b)).

f. Off-Permit Provisions. The Arizona agencies have chosen to combine the requirements for operational flexibility as provided for in § 70.4(b)(12) and off-permit processing of changes as provided for in § 70.4(b)(14) such that one set of provisions in the State and county permitting regulations governs both procedures. (See AAC § R18–2–317, MAPC Regulation II, Rule 210, § 403, PCC § 17.12.230, PCR § 3–2–180.) While the regulations are not structured exactly as in part 70, EPA finds that these provisions satisfy the requirements of both § 70.4(b)(12) and § 70.4(b)(14).

3. Legislative Criminal Enforcement Provisions

Two provisions of Arizona's criminal enforcement authorities initially caused some concern with EPA reviewers. The first of these is the affirmative defense contained in A.R.S. § 49–464(Q) and § 49–514(P), which applies only to violations of emissions and opacity limits. This section provides an affirmative defense to a criminal prosecution if the violation is reported within 24 hours, and followed with a written notification within 72 hours which confirms the violation and identifies the corrective measures taken to control and minimize emissions until compliance is achieved. While the requisite intent for a criminal prosecution would usually be lacking in such an instance, EPA was concerned that a situation could arise where the provision could be used to avoid prosecution for an intentional violation.

In response to EPA's concerns, the Arizona Attorney General's office has explained that this provision has no impact on the Attorney General's ability to prosecute violations of any other requirement and that in appropriate instances violators will be charged with alternative violations under the statute. The Attorney General's office has also pointed out that under the State's enforcement policy an order of abatement would be issued following receipt of notification under § 49–464(D), meaning that a repeat violation would not be protected by the affirmative defense. See letter dated May 4, 1995 from David W. Ronald, Chief, Environmental Crimes Unit, Arizona Attorney General's Office, to Carol M. Browner, Administrator, EPA.

EPA's second concern was that Arizona's criminal penalty provisions are not precisely the same as those specified in § 70.11. Rather than the $10,000 per day per violation set forth in § 70.11(a)(3)(ii) and (iii), the Arizona Attorney General may seek $1,000,000 per offense against an enterprise, and $150,000 per offense against an individual. However, EPA believes that the maximum penalties which could be obtained in a state criminal prosecution would be roughly equivalent to those available under federal law.

Each of these concerns has been resolved to EPA's satisfaction and will not affect EPA's approval of the program. EPA notes that Arizona, in addition to authority for criminal fines, has authority to seek prison terms for criminal violations of permit terms, an authority not required under § 70.11. In light of this, and in light of the limited nature of the affirmative defense provided in § 49–464(D), EPA believes that Arizona's criminal enforcement authority is substantially equivalent to that required by § 70.11. In addition, EPA will monitor each of these issues and may revisit them in the future if actual criminal practice under the program does not reflect the resolutions discussed above.

4. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect

fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed $25 per ton per year (adjusted annually based on the Consumer Price Index (CPI), relative to 1989 CPI). The $25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum,'' (§ 70.9(b)(2)(i)).

ADEQ, Maricopa, Pima, and Pinal have all adopted fee rules that require sources to pay annual fees that result in collection of an amount that is above the CPI-adjusted presumptive minimum value. Effective January 1, 1994, ADEQ charges each title V source an annual emission-based fee of $33.00 per ton. This rate will be adjusted each year on January 1 to reflect the increase by which the CPI for the most recent year exceeds the CPI for 1989. Maricopa requires each title V source to pay an annual emission fee equal to $31.00 per ton, adjusted each year, beginning January 1, 1995, to reflect the increase by which the CPI for the most recent year exceeds the CPI for 1993. Pima charges title V sources an annual emission fee of $33.00 per ton adjusted annually relative to the 1993 CPI. Pinal requires title V sources to pay annual base, emission, and inspection fees that together amount to $33.94 per ton. These fees will be adjusted each year based on a cost accounting analysis or on the change in the CPI. The Arizona State and county agencies charge additional application fees, inspection fees, permit revision processing fees, fees applicable to certain activities and operation of specific pieces of equipment, and fees representing actual cost of services. ADEQ estimates total annual revenues of $3.4 million. Maricopa estimates total annual revenues of $2.7 million. Pima estimates annual title V revenues of $400,000. Pinal's annual revenue from title V sources will be $233,000. The State and county agencies developed their fee rules based on a workload analysis and cost estimation. For additional information, see the TSD for each agency.

5. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and Commitments for section 112 Implementation. The Arizona State and county agencies have demonstrated in their title V program submittals adequate legal authority to implement and enforce all section 112 applicable requirements through the title V permit. This legal authority is contained in the State of Arizona enabling legislation and in regulatory provisions defining ''applicable requirements'' and requiring each permit to include limitations that assure compliance with all such applicable requirements. The Arizona agencies have supplemented this legal authority with a commitment in their submitted programs to adopt any future standards and regulations related to section 112 in a timely manner as they are promulgated by EPA. The EPA regards this commitment as an acknowledgement by the Arizona agencies of their obligation to obtain further regulatory authority as needed to issue permits that implement and enforce the requirements of section 112. The EPA has determined that the Arizona agencies' legal authority and commitments are sufficient to allow these agencies to issue permits that assure compliance with all section 112 requirements. For further discussion, please refer to the Technical Support Documents accompanying this action and the April 13, 1993 guidance memorandum entitled ''Title V Program Approval Criteria for section 112 Activities,'' signed by John Seitz.

b. Implementation of Section 112(g). The EPA has published an interpretive notice in the **Federal Register** regarding section 112(g) of the Act (60 FR 8333; February 14, 1995). The interpretive notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the federal rule so as to allow states time to adopt rules implementing the federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), ADEQ, Maricopa, Pima, and Pinal must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing State and county regulations.

Implementation of section 112(g) during this transition period requires that the State and county agencies have an available mechanism for establishing federally enforceable HAP emission limits or other conditions from the effective date of the section 112(g) rule until the State and county agencies adopt rules specifically designed to implement section 112(g). ADEQ, Maricopa, Pima, and Pinal require that any source that modifies must obtain a permit or permit revision prior to commencing construction. All of the Arizona agency programs are integrated programs; that is, the permit that is issued to a new or modifying source prior to its construction will contain all preconstruction review requirements and all operating requirements. Integrated (preconstruction/operating) permits issued to major sources must meet all procedural requirements of part 70, including public and EPA review, and are therefore part 70 permits. In Arizona, sources subject to section 112(g) (new or modified major sources of hazardous air pollutants) will be issued a part 70 permit prior to construction. The source will then have federally enforceable limits on HAP emissions in compliance with section 112(g). Once EPA promulgates a final 112(g) rule, ADEQ, Maricopa, Pima, and Pinal will act expeditiously to adopt regulations consistent with the 112(g) regulations.

c. Authority and Commitments for Title IV Implementation. ADEQ committed in a letter from Ed Fox, Director, dated March 14, 1994 to acquire by January 1, 1995 the necessary regulatory authority to administer an acid rain program and to make regulatory revisions as necessary to accommodate federal revisions and additions. On August 1, 1994, ADEQ adopted 40 CFR part 72 by reference into AAC R18–2–333. Maricopa made a similar commitment in a letter from Louis A. Schmitt, Control Officer, dated March 9, 1994. Maricopa adopted 40 CFR part 72 by reference into MAPC Regulation III, Rule 371 on February 15, 1995. David M. Esposito, Director for Pima submitted an acid rain commitment letter on January 27, 1994. Pima has begun its rulemaking process and expects to complete adoption of part 72 by October, 1995. Pinal has adopted the part 72 acid rain regulations by reference into PCR Chapter 3, Article 6 and also included in its program description a commitment to submit any additional required information by January 1, 1995.

B. Proposed Interim Approval and Implications

The EPA is proposing to grant interim approval to the operating permits programs submitted by ADEQ on the behalf of itself, Maricopa, Pima, and Pinal on November 15, 1993 and supplemented by ADEQ on March 14, 1994; May 17, 1994; March 20, 1995; and May 4, 1995; by Maricopa on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995; by Pima on December 15, 1993; January 27, 1994; April 6, 1994; and April 8, 1994; and by ADEQ on Pinal's behalf on

August 16, 1994. If EPA were to finalize the proposed interim approvals, they would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, ADEQ, Maricopa, Pima, and Pinal would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a federal permits program for the State or counties. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.

Following final interim approval, if the State or county agencies failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State or counties then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would be required to apply one of the sanctions in section 179(b) of the Act, which would remain in effect until EPA determined that the State or counties had corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator found a lack of good faith on the part of the State or counties, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that the State or counties had come into compliance. In any case, if, six months after application of the first sanction, the State or counties still had not submitted a corrective program that EPA found complete, a second sanction would be required.

If, following final interim approval, EPA were to disapprove the State or counties complete corrective program, EPA would be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State or counties had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator found a lack of good faith on the part of the State or counties, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that the State or counties had come into compliance. In all cases, if, six months after EPA applied the first sanction, the State or counties had not submitted a revised program that EPA had determined corrected the deficiencies that prompted disapproval, a second sanction would be required.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if a state or county has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a state or county program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for that state or county upon interim approval expiration.

1. Title V Operating Permits Program

a. *Arizona Department of Environmental Quality*. If EPA finalizes this interim approval, ADEQ must make the following changes, or changes that have the same effect, to receive full approval:

(1) AAC R18–2–101(54) contains ADEQ's definition of ''Insignificant activity.'' It includes a list of activities as well as a provision that the Director may determine, without EPA approval, other activities to be insignificant (Director's discretion). To receive full approval, ADEQ must delete section R18–2–101(54)(j), the Director's discretion provision, and provide a demonstration that the activities listed in R18–2–101(54)(a–i) are truly insignificant. Alternatively, ADEQ may restrict the exemptions to activities that emit less than ADEQ-established emission levels and retain the provision that activities that are subject to an applicable requirement shall not be considered insignificant. ADEQ should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (§ 70.5(c), § 70.4(b)(2))

(2) Revise AAC R18–2–101(61) to require that all fugitive emissions of hazardous air pollutants at a source be considered in determining whether the source is major for purposes of section 112 of the CAA.

(3) Revise AAC R18–2–304(C) to include an application deadline for existing sources that become subject to obtaining a Class I permit after the initial phase-in of the program. One example is a synthetic minor source that is not initially required to obtain a Class I permit but later removes federally enforceable limits on its potential emissions such that it becomes a major source, but is not required to go through the preconstruction review process. This application deadline must be 12 months from when the source becomes subject to the program (meets Class I permit applicability criteria). (§ 70.5(a)(1)(i))

(4) Section 70.6(a)(8) requires that title V permits contain a provision that ''no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.'' AAC R18–2–306(A)(10) includes this exact provision but also includes a sentence that negates this provision. ADEQ must either delete the negating sentence:

> This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or revise this sentence as follows:

> This provision shall not apply to emissions trading between sources [as provided] *if such trading is prohibited* in the applicable implementation plan.

(§ 70.6(a)(8))

(5) Section 70.4(b)(12) provides that sources are allowed to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. Specifically, § 70.4(b)(12)(iii) provides that if a permit applicant requests it, the permitting authority shall issue a permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap, established in the permit independent of otherwise applicable requirements. AAC R18–2–306(A)(14) provides for such permit conditions but does not restrict the allowable changes to those that are not modifications under title I of the Act and those that do not exceed the emissions allowable under the permit. ADEQ must revise AAC R18–2–306(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit.

(6) Revise AAC R18–2–310 to clarify that this provision does not apply to part 70 sources. This provision provides sources with an affirmative defense to an enforcement action taken for excess emissions violations that occur during

startup, shutdown, unavoidable breakdown of process or control equipment, an upset of operations, or if greater or more extended excess emissions would result unless scheduled maintenance is performed, provided the source takes certain steps. Fully approvable part 70 programs may only allow for an affirmative defense for violations which are the result of an emergency as defined in § 70.6.

(7) Revise AAC R18–2–322 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(8) Revise AAC R18–2–330(C) to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(9) As discussed in II.A.3. above, A.R.S. § 49–464(Q) and § 49–514(P) provide an affirmative defense to a criminal prosecution for violations of emission and opacity limits if the violation is promptly reported and corrective measures are taken to control and minimize emissions until compliance is achieved. So that ADEQ may charge violators with alternative violations in appropriate instances as discussed in II.A.3., it must revise the definition of ''Material Permit Condition'' in AAC R18–2–331 as follows:

(a) Revise R18–2–331(A)(1) to provide that ''the condition is in a permit or permit revision issued by the Director *or the Control Officer* after the effective date of this Section.''

(b) Delete the requirement in R18–2–331(A)(2) that the condition must be identified within the permit as a material permit condition.

(c) Revise R18–2–331(A)(3)(c) to provide that a material permit condition includes a ''requirement for the installation, operation, maintenance, or certification of a monitoring device.''

(d) Revise R18–2–331(A)(3)(e) to provide that a material permit condition includes a ''requirement for the operation or maintenance of air pollution control equipment.''

(e) Revise R18–2–331(A)(3) to include the following:

i. A requirement for or prohibition on the use of a particular fuel or fuels, including a requirement for fuel consumption;

ii. A requirement to meet an operational limit, including, but not limited to, hours of operation, throughput, production rates, or limits or specifications for raw materials;

iii. A requirement to comply with a work practice standard that is intended to reduce emissions (e.g., covering solvents, wetting unpaved roads).

(10) Revise AAC R18–2–331(A)(3) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 464(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 464(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give ADEQ the authority to bring criminal charges for knowing violations of fee and filing requirements.

(11) Revise AAC R18–2–504, which contains public notice procedures for the issuance of general permits, to include requirements that ADEQ shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

b. *Maricopa County Environmental Management and Transportation Agency, Division of Air Pollution Control.* If EPA finalizes this interim approval, Maricopa must make the following changes, or changes that have the same effect, to receive full approval:

(1) Delete the following language from MAPC Regulation I, Rule 100, section 224:

> Properties shall not be considered contiguous if they are connected only by property upon which is located equipment utilized solely in transmission of electrical energy.

This language, which is part of the definition of a stationary source, is not consistent with the stationary source definition in § 70.2.

(2) Revise MAPC Regulation I, Rule 100, § 251.2 to clarify that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year major source thresholds. The phrase ''including any major source of fugitive emissions'' in the submitted § 251.2 appears to modify only the 25 ton per year threshold. This phrase could also imply that fugitives are included in the potential to emit determination only if the source emits major amounts of fugitive emissions. The EPA expects, however, that Maricopa will implement this provision consistent with the EPA policy that all fugitive emissions of hazardous air pollutants at a source must be considered in determining whether the source is major for purposes of section 112 of the CAA.

(3) A.R.S. § 49–514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director of ADEQ by rule. Maricopa is therefore required to use ADEQ's definition of ''Material Permit Condition.'' For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise MAPC Regulation I, Rule 100, section 253 in the same way as required for ADEQ in II.B.1.a.(9).

(4) For the same reasons discussed above in II.A.B.1.a.(10) and II.A.B.1.b.(3), revise MAPC Regulation I, Rule 100, section 253.1(c) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give Maricopa the authority to bring criminal charges for knowing violations of fee and filing requirements.

(5) Revise MAPC Regulation I, Rule 100, section 505 to clarify that for Title V sources, records of all required monitoring data and support information must be retained for a period of five years, as provided in Regulation II, Rule 210, section 302.1(d)(2). (§ 70.6(a)(3)(ii)(B))

(6) Revise MAPC Regulation I, Rule 100, section 506 to clarify that for Title V sources, all permits, including all elements of permit content specified in Rule 210, section 302, shall be available to the public, as provided in Regulation

II, Rule 200, section 411.1. (§ 70.4(b)(3)(viii))

(7) Revise MAPC Regulation II, Rule 200, section 312.2 to define when sources become ''subject to the requirements of Title V.'' A source becomes subject to the requirements of title V on the date that EPA approves the County's program and when the source meets the applicability requirements as provided in section 302 of Rule 200. In addition, revise section 312.5 to require that existing sources that do not hold a valid installation or operating permit must submit an application within 12 months of becoming subject to the requirements of title V.

(8) Revise MAPC Regulation II, Rule 200, section 403 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(9) MAPC Regulation II, Rule 200, section 303.3(c) contains the list of activities that are exempt from part 70 permitting. The applicants must list these activities in permit applications but need not provide emissions data (per Regulation II, Rule 210, section 301.5(g)). To receive full approval Maricopa must provide a demonstration that the activities listed in Rule 200, Section 303.3(c) are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Maricopa may restrict the exemptions to activities that are not likely to be subject to an applicable requirement and that emit less than County-established emission levels. Maricopa should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (§ 70.5(c), § 70.4(b)(2))

(10) For the reason explained above in II.B.1.a.(4), revise MAPC Regulation II, Rule 210, Section 302.1(j) by either deleting the following sentence:

> This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or by revising this sentence as follows:

> This provision shall not apply to emissions trading between sources if such trading is prohibited in the applicable implementation plan.

(§ 70.6(a)(8))

(11) For the reason explained above in II.B.1.a.(5), revise MAPC Regulation II, Rule 210, Section 302.1(n) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, revise this provision to require the notice required by sections 403.4 and 403.5 to also describe how the increases and decreases in emissions will comply with the terms and conditions of the permit. (§ 70.4(b)(12))

(12) Delete the provision of MAPC Regulation II, Rule 210, section 404.1(e) that provides for equipment removal that does not result in an increase in emissions to be processed as an administrative permit amendment. Removal of certain equipment, even if it does not result in an increase in emissions, may require processing as a significant permit revision. One example is removal of monitoring equipment, which part 70 clearly requires to be processed as a significant permit revision. (§ 70.7(d), § 70.7(e)(4))

(13) Delete the following language from the criteria for minor permit revisions in MAPC Regulation I, Rule 210, section 405.1(c):

> * * * other than a determination of RACT pursuant to Rule 241, Section 302 of these rules, * * *

This language is included in the rule as an exception to the prohibition against allowing case-by-case determinations to be processed as minor permit revisions. The definition of RACT in section 272 of Rule 100 states that ''RACT for a particular facility, other than a facility subject to Regulation III, is determined on a case-by-case basis * * *'' Rule 241 is not in Regulation III, so RACT determinations made pursuant to this rule are done so on a case-by-case basis. Excepting RACT determinations from the prohibition against processing case-by-case determinations through the minor permit revision process violates the requirement of section 70.7(e)(2)(i)(A)(3).

(14) Revise Regulation II, Rule 210, Section 408 to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(15) Revise MAPC Regulation II, Rule 230, Section 304, which contains public notice procedures for the issuance of general permits, to include requirements that Maricopa shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

c. Pima County Department of Environmental Quality. If EPA finalizes this interim approval, Pima must make the following changes, or changes that have the same effect, to receive full approval:

(1) Revise PCC § 17.04.340(133)(b)(i), the definition of major source, to clarify that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year major source thresholds. The current definition appears to require inclusion of fugitive emissions only when determining applicability according to the 10 ton per year major source threshold.

(2) Revise PCC § 17.12.150(B) and § 17.12.150(G)(1) to clarify when a source becomes subject to obtaining title V permits. A source becomes subject to obtaining a title V permit on the date that EPA approves the County's program and when the source meets the applicability requirements as provided in § 17.12.140(B)(1).

(3) PCC § 17.12.160(E)(7) contains emission levels that define which emission units are exempt from part 70 permitting. The applicants must list activities that emit below these levels in the permit applications but need not provide detailed information or data regarding these units. To receive full approval, Pima must demonstrate that these emission levels are insignificant compared to the level of hazardous air pollutant emissions from units that are required to be permitted or subject to applicable requirements or establish separate insignificant emission levels for HAPs and use the current emission levels in § 17.12.160(E)(7) to define insignificant activities for criteria pollutant-emitting units only. Pima must also restrict the exemptions to activities that are not likely to be subject to an applicable requirement . (See discussion in II.A.2.b. above.) (§ 70.5(c), § 70.4(b)(2))

(4) For the same reason discussed above in II.B.1.a.(4), revise PCC § 17.12.180(A)(10) by either deleting the following sentence:

This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or by revising this sentence as follows:

This provision shall not apply to emissions trading between sources if such trading is prohibited in the applicable implementation plan.

(§ 70.6(a)(8))

(5) For the same reason discussed above in II.B.1.a.(5), revise PCC § 17.12.180(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. (§ 70.4(b)(12))

(6) Revise PCC § 17.12.280 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(7) Revise PCC § 17.12.340 to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(8) A.R.S. § 49–514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director of ADEQ by rule. Pima is therefore required to use ADEQ's definition of ''Material Permit Condition.'' For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise PCC § 17.12.350 in the same way as required for ADEQ in II.B.1.a.(9).

(9) For the same reasons discussed above in II.B.1.a.(10) and II.B.1.c.(8), revise PCC § 17.12.350(A)(3) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give Pima the authority to bring criminal charges for knowing violations of fee and filing requirements. (§ 70.11(a)(3)(ii))

(10) Revise PCC § 17.12.400, which contains public notice procedures for the issuance of general permits, to include requirements that Pima shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

d. Pinal County Air Quality Control District. If EPA finalizes this interim approval, Pinal must make the following changes, or changes that have the same effect, to receive full approval:

(1) PCR § 1–3–140(74a)(b) contains Pinal's definition of ''Insignificant activity.'' It includes an emissions threshold that defines which units or activities would be exempt from permitting. The EPA considers this level to be acceptable for most pollutants but a lower threshold may be appropriate for certain hazardous air pollutants. The definition also contains a list of activities that are considered insignificant and exempt from permitting regardless of their level of emissions. To receive full approval, Pinal must demonstrate that the 200 pound per year emission threshold is insignificant compared to the level of hazardous air pollutant emissions from units that are required to be permitted activities and provide a demonstration that the activities listed in § 1–3–140(74a)(b)(i–ix) are truly insignificant. Alternatively, Pinal may restrict exemptions to activities that emit less than County-established emission levels and retain the provision that activities that are subject to an applicable requirement shall not be considered insignificant. Pinal should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (§ 70.5(c), § 70.4(b)(2))

(2) Revise PCR § 1–3–140(79)(b) to require that all fugitive emissions of hazardous air pollutants at a source be considered in determining whether the source is major for purposes of section 112 of the CAA. Revise PCR § 1–3–140(79)(c) to provide that fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the categories of stationary sources listed in section 70.2 under the definition of ''Major source,'' paragraph 2, items (i) to (xxvii).

(3) Revise PCR § 3–1–040(C)(1) to require that the motor vehicles, agricultural vehicles, and fuel burning equipment that are exempt from permitting shall not be exempt if they are subject to any applicable requirements. (70.5(c))

(4) Revise PCR § 3–1–045(G)(1) to require sources requiring Class A permits to submit a permit application no later than 12 months after the date the Administrator approves the District program. Revise PCR § 3–1–050(C) to include an application deadline for existing sources that become subject to obtaining a Class A permit after the initial phase-in of the program. One example is a synthetic minor source that is not initially required to obtain a Class I permit but later removes federally enforceable limits on its potential emissions such that it becomes a major source, but is not required to go through the preconstruction review process. This application deadline must be 12 months from when the source becomes subject to the program (meets Class A permit applicability criteria). (§ 70.5(a)(1)(i))

(5) For the reason discussed above in II.B.1.a.(4), revise PCR § 3–1–081(A)(10) by either deleting the following sentence:

This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or by revising this sentence as follows:

This provision shall not apply to emissions trading between sources if such trading is prohibited in the applicable implementation plan.

(§ 70.6(a)(8))

(6) For the reason discussed above in II.B.1.a.(5), revise PCR § 3–1–081(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, revise this provision to require that the permit terms and conditions shall provide for notice that conforms to section 3–2–180 (D) and (E) and that describes how the increases and decreases in emissions will comply with the terms and conditions of the permit. (§ 70.4(b)(12))

(7) Revise PCR § 3–1–089 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(8) Revise PCR § 3–1–107(C) to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(9) A.R.S. § 49–514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director of ADEQ by rule. Pinal is therefore required to use ADEQ's definition of ''Material Permit Condition.'' For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise PCR § 3–1–109 in the same way as required for ADEQ in II.B.1.a.(9).

(10) For the same reasons discussed above in II.A.B.1.a.(10) and II.A.B.1.d.(9), revise PCR § 3–1–109(A)(3) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give Pinal the authority to bring criminal charges for knowing violations of fee and filing requirements.

(11) Revise PCR § 3–4–420 to provide that a conditional order that allows a source to vary from the requirement to obtain a Class A permit may not be granted to any source that meets the Class A permit applicability criteria pursuant to PCR § 3–1–040.

(12) Revise PCR § 3–5–500, which contains public notice procedures for the issuance of general permits, to include requirements that Pinal shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

2. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that state and county programs contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of ADEQ's, Maricopa's, Pima's, and Pinal's programs for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated and that apply to sources covered by the part 70 program.

Because Pima and Pinal require all sources (including nonmajor sources) subject to a requirement under section 112 of the Act to obtain a part 70 permit, the proposed approval of Pima's and Pinal's program for delegation extends to section 112 standards as applicable to all sources. ADEQ and Maricopa will not issue part 70 permits to nonmajor sources subject to a section 112 standard (unless such sources are designated by EPA to obtain a permit) but these agencies submitted addenda to their title V programs in which they specifically requested approval under section 112(l) of a program for delegation of unchanged section 112 standards applicable to non-part 70 sources. (See letter from Nancy Wrona, Director, Air Quality Division, ADEQ to David Howekamp, Director, Air and Toxics Division, EPA Region IX, dated March 20, 1995. See letter from David Ludwig, Acting Director, Maricopa County Environmental Services Department, to David Howekamp, dated March 21, 1995.) Therefore, today's proposed approval under section 112(l) of ADEQ's and Maricopa's program for delegation extends to non-part 70 sources as well as part 70 sources.

ADEQ, Maricopa, Pima, and Pinal have informed EPA that each intends to obtain the regulatory authority necessary to accept delegation of section 112 standards by incorporating section 112 standards into State and county codes of regulations by reference to the federal regulations. The details of this delegation mechanism will be set forth in a Memorandum of Agreement between each Arizona agency and EPA, expected to be completed prior to approval of each agency's section 112(l) program for straight delegations. This program applies to both existing and future standards.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State and county submittals and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by August 14, 1995.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the proposed interim approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal

governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: July 5, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–17208 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

45 CFR Part 57a

RIN 0905–AC95

Spcial Volunteer Services at the National Institutes of Health

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Withdrawal of proposed rule.

SUMMARY: The National Institutes of Health (NIH) is withdrawing the notice of proposed rulemaking (NPRM) pertaining to the acceptance and use of uncompensated volunteer services. This action is being taken to comply with provisions of Executive Order No. 12866.

SUPPLEMENTARY INFORMATION: The NIH published an NPRM in the **Federal Register** August 9, 1993 (58 FR 42270) governing the acceptance and use of uncompensated volunteer services administered through the NIH Special Volunteer Program, and invited public comment on the proposed regulations. Subsequently, the President issued Executive Order No. 12866, Regulatory Planning and Review, which outlines a program to reform and make more efficient the regulatory process. Section 1(a) of that Order directs agencies to promulgate only those regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling need. The NIH has determined that the regulations are not required by law or necessary to interpret the law; nor is there a compelling need for the proposed regulations pertaining to the NIH Special Volunteer Program. Consequently, the NIH is withdrawing the proposed regulations and will continue to administer the program through guidelines.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Moore, NIH Regulatory Affairs Officer, Building 31, Room 1B05, 31 Center Dr. MSC 2075, Bethesda, MD 20892–2075, telephone (301) 496–4606 (not a toll-free number).

List of Subjects in Proposed 45 CFR Part 57a

Special volunteers, Volunteers.

Dated: May 17, 1995.

Philip R. Lee,

Assistant Secretary for Health.

Approved: July 3, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–17107 Filed 7–12–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AC02

Visitor Service Authorizations on Alaska National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; re-opening of public comment period.

SUMMARY: The proposed rule would establish Fish and Wildlife Service regulations to implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). The proposed regulations are necessary to establish procedures for granting historical use, Native Corporation, and local preferences in the selection of commercial operators who provide visitor services other than hunting and fishing guiding on National Wildlife Refuge System lands in Alaska. Particularly, this rule would provide guidance in the solicitation, award and renewal of Alaska visitor service authorizations. This rulemaking, the substance of which was printed as a proposed rule on April 25, 1995 (60 FR 20380), extends the comment period for another 60 days to allow additional review and comment by interested groups and persons.

DATES: Comments will be accepted until September 11, 1995.

ADDRESSES: Comments should be addressed to Regional director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503.

FOR FURTHER INFORMATION CONTACT: David J. Patterson, Regional Public Use Specialist, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Extended Comment Period: Revenue Producing Visitor Services

This document announces a 60-day re-opening of the comment period for the proposed Revenue producing visitor services, that was published in the **Federal Register** on April 25, 1995, (60 FR 20380). The initial comment period expired on June 26, 1995. Many comments received during the initial comment period requested additional time to review the proposed regulations. Accordingly, the comment period for the proposed rule is hereby extended for an additional 60 days.

Dated: July 7, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17087 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

[I.D. 062695A]

Coral and Coral Reefs of the Gulf of Mexico; Amendment 3

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

ACTION: Notice of availability of an amendment to a fishery management plan and minority report; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 3 to the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before August 21, 1995.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS,

9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 3, which includes a regulatory impact review and an environmental assessment, or for copies of the minority report on Amendment 3 should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609-2486, FAX 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared amendment to a fishery management plan be submitted to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an amendment, immediately publish a notice that the amendment is available for public review and comment. NMFS will consider public comment in determining approvability of the amendment.

Amendment 3 proposes the following measures: Prohibit the taking of wild live rock in the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) off Florida north and west of the Levy/Dixie County line; remove the prohibition on taking wild live rock by chipping between the Pasco/Hernando County and Levy/Dixie County, FL, lines; establish a 500,000-lb (226,796–kg) annual quota for 1995 and 1996 in the Gulf EEZ off Florida north of Monroe County to the Levy/Dixie County line, which is the only area that would remain open to live rock harvesting in the Gulf EEZ; and reduce the amount of substrate that may be taken at the base of an allowable octocoral in the Gulf EEZ from 3 inches (7.6 cm) to 1 inch (2.5 cm).

A minority report submitted by two Council members objected to the proposed prohibition on taking wild live rock in the Gulf EEZ off Florida north and west of the Levy/Dixie County line. The report argues that Amendment 3 reneges on an earlier Council commitment that provided investors greater time to convert their business investments to aquaculture.

Proposed regulations to implement Amendment 3 are scheduled for publication within 15 days.

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

Dated: July 6, 1995.

Richard W. Surdi,

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

[FR Doc. 95–17100 Filed 7–7–95; 4:56 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 134
Thursday, July 13, 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. 95–011–2]

Availability of Determination of Nonregulated Status for Genetically Engineered Corn

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that corn developed by AgrEvo USA Company designated as Glufosinate Resistant Corn Transformation Events T14 and T25 that has been genetically engineered for tolerance to the herbicide glufosinate is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by AgrEvo USA Company in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the AgrEvo USA Company petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: June 22, 1995.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. David Heron, Biotechnologist, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1994, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 94–357–01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, seeking a determination that corn designated as Glufosinate Resistant Corn (GRC) Transformation Events T14 and T25 (GRC Events T14 and T25) that has been genetically engineered for tolerance to the herbicide glufosinate does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On February 27, 1995, APHIS published a notice in the **Federal Register** (60 FR 10537–10538, Docket No. 95–011–1) announcing that the AgrEvo petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject corn and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether the subject corn posed a plant pest risk. The comments were to have been received by APHIS on or before April 28, 1995.

APHIS received nine comments on the AgrEvo petition. Comments were received from associations, universities, seed companies, and a State department of agriculture. All the commenters supported the AgrEvo petition for nonregulated status for the subject corn.

Analysis

GRC Events T14 and T25 contain a gene that encodes the enzyme phosphinothricin-N-acetyltransferase (PAT). The PAT enzyme catalyzes the conversion of L-phosphinothricin, the active ingredient in glufosinate-ammonium, to an inactive form, thereby conferring resistance to herbicides in the phosphinothricin class. The *pat* gene in GRC Events T14 and T25 is a synthetic version of the gene isolated from the bacterium *Streptomyces viridochromogenes*. Expression of the *pat* gene is regulated by the 35S promoter and the 35S terminator derived from the plant pathogen cauliflower mosaic virus. The subject corn has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains certain gene sequences derived from a plant pathogen. However, evaluation of field data reports from field tests of the subject corn conducted under APHIS permits or notifications since 1992 indicate that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject corn plants' release into the environment.

Determination

Based on its analysis of the data submitted by AgrEvo and a review of other scientific data, comments received from the public, and field tests of the subject corn, APHIS has determined that GRC Events T14 and T25: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than other corn developed by traditional breeding techniques; (3) are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (4) will not harm other organisms, such as bees, that are beneficial to agriculture; and (5) should not cause damage to processed agricultural commodities. APHIS has also concluded that there is no reason to believe that new progeny corn varieties derived from GRC Events T14 and T25 will exhibit new plant pest properties, i.e., properties substantially different from any observed for the GRC Events T14 and T25 already field tested or those observed for corn in traditional breeding programs.

The effect of this determination is that corn designated as GRC Events T14 and T25 is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the permit and notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of GRC Events T14 and T25 or their progeny. However, the importation of the subject corn or seeds

capable of propagation is still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that GRC Events T14 and T25 and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 6th day of July 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–17079 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–34–P

[Docket No. 94–139–2]

Availability of Determination of Nonregulated Status for Genetically Engineered Cotton

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Monsanto Company's genetically engineered, insect-resistant cotton lines designated as 531, 757, and 1076 are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Monsanto Company in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Monsanto Company petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: June 22, 1995.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Keith Reding, Biotechnologist, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1994, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 94–308–01p) from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination that cotton lines designated as 531, 757, and 1076 that have been genetically engineered for insect resistance do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

On February 9, 1995, APHIS published a notice in the **Federal Register** (60 FR 7746–7747, Docket No. 94–139–1) announcing that the Monsanto petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject cotton lines and food products derived from them. In the notice, APHIS solicited written comments from the public as to whether the subject cotton lines posed a plant pest risk. The comments were to have been received by APHIS on or before April 10, 1995.

APHIS received 69 comments on the Monsanto petition, from cotton farmers, individuals, universities, agricultural experiment stations, cooperative extension service offices, a bank, a chemical company, a cotton researcher, a cotton cooperative association, a gas and oil supplier, and a worker's compensation trust. Sixty-eight commenters either provided information supporting nonregulated status for the subject cotton lines or urged expedited approval to allow commercial planting of the insect-resistant cotton. One commenter cited several issues for further consideration, without recommending approval or denial of the petition. APHIS has provided a summary and discussion of the comments in the determination document, which is available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Analysis

Monsanto's cotton lines 531, 757, and 1076 have been genetically engineered to express an insect control protein encoded by the *cryIA(c)* gene that occurs naturally in *Bacillus thuringiensis* subsp. *kurstaki (Btk),* a common soil bacterium. This protein is effective against such lepidopteran insect pests as cotton bollworm, tobacco budworm, and pink bollworm, and is expressed at a consistent level in the cotton plant throughout the growing season. The subject cotton lines also contain the *nptII* gene which encodes the enzyme neomycin phosphotransferase II. Presence of the NPTII protein confers tolerance to the antibiotic kanamycin and allows selection of the transformed cells in the presence of kanamycin. These genes were stably transferred into the genome of cotton plants using *Agrobacterium tumefaciens*-mediated transformation.

The subject cotton lines have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences (vectors, promoters, and terminators) derived from plant-pathogenic sources. However, evaluation of field data reports from field tests of the subject cotton lines conducted since 1992 under APHIS permits or notifications indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject cotton plants' release into the environment.

Determination

Based on its analysis of the data submitted by Monsanto and a review of other scientific data, comments received from the public, and field tests of the subject cotton lines, APHIS has determined that cotton lines 531, 757, and 1076: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than their nonengineered parental varieties; (3) are not likely to increase the weediness potential of any other cultivated plant or native wild species with which they can interbreed; (4) will not cause damage to raw or processed agricultural

commodities; (5) and are not likely to harm other organisms, such as bees, that are beneficial to agriculture. APHIS has also concluded that there is a reasonable certainty that new lepidopteran-resistant cotton varieties bred from these lines will not exhibit new plant pest properties, i.e., properties substantially different from any observed for the lepidopteran-resistant cotton lines already field tested or those observed for cotton in traditional breeding programs.

The effect of this determination is that insect-resistant cotton lines designated as 531, 757, and 1076 are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the permit and notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject cotton lines or their progeny. However, the importation of the subject cotton lines or seeds capable of propagation is still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that the subject cotton lines and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 6th day of July 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–17080 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

RIN NO. 0596–AB49

Ski Area Permit Fee System

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy; request for public comment.

SUMMARY: The Forest Service proposes to revise existing procedures for determining permit fees for the use of National Forest System lands by ski areas. Permit fees for most ski areas operating on National Forest System lands are determined under the graduated rate fee system (GRFS). As applied to large ski areas, GRFS is complex and costly to administer and has been the subject of several audits, administrative appeals, and lawsuits. Under the proposed policy, the agency would determine permit fees by site-specific appraisal of the use of National Forest System lands by ski areas. The proposed system would produce ski area permit fees that are based on fair market value as required by law; would be simpler and less costly to administer than GRFS; would eliminate the need for burdensome audits of ski area assets and revenues for those ski areas under the new system; and would make individual fee determinations in a nationally consistent manner.

DATES: Comments must be received in writing by September 11, 1995.

ADDRESSES: Send written comments to the Recreation, Heritage, and Wilderness Resources Staff (2340), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Lyle Laverty, Director, Recreation, Heritage, and Wilderness Resources Staff, (202) 205–1706.

SUPPLEMENTARY INFORMATION:

Background

Today there are 155 national forests comprising approximately 191 million acres in 42 States, the Virgin Islands, and Puerto Rico. These forests, together with 20 national grasslands, land utilization projects, purchase units, and other lands, constitute the National Forest System.

The National Forest Ski Area Permit Act of 1986 authorizes the Forest Service to issue permits for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes (16 U.S.C. 497b). Ski area permits issued before the effective date of the National Forest Ski Area Permit Act are authorized by the Term Permit Act (16 U.S.C. 497) and the Forest Service's Organic Act (16 U.S.C. 551). The Forest Service issues special use permits to ski areas for the use and occupancy of National Forest System lands in accordance with 36 CFR part 251, subpart B. Permit fees for ski areas operating on National Forest System lands must be based on fair market value (16 U.S.C. 497b(b)(8); 31 U.S.C. 9701; 36 CFR 251.57).[1] Direction on the graduated rate fee system (GRFS), the current permit fee system for most ski areas operating on National Forest System lands, can be found in Forest Service Manual Chapter 2710, Special Uses Management, Section 2715, Fees.

There are 120 alpine or alpine and nordic ski areas operating on National Forest System lands that pay annual permit fees determined under GRFS. Seventeen alpine or alpine and nordic ski areas operating on National Forest System lands pay annual flat permit fees based either on GRFS principles or a percentage of land value.

Graduated Rate Fee System (GRFS)

GRFS has been in effect for more than two decades and is complex and difficult to administer for ski areas.

GRFS uses a standardized formula to obtain a percentage of the ski area's gross revenues Fees are calculated by applying scheduled rates to the ski area's sales revenue. Which rate applies is determined by the proportion of the ski area's sales revenue to the ski area's gross fixed assets (GFA): as sales revenue increases in relation to GFA, a higher rate is applied and the total fee increases; as sales revenue decreases in relation to GFA, lower rates apply and the total fee decreases.

GRFS divides the ski area's sales revenue into nine business categories (such as revenue from lifts, tows, and ski schools; rentals and services; and merchandise) and applies a different profitability indicator or break-even point to each category. The break-even point, expressed as the ratio of sales revenue to GFA, is the point at which a business begins to show a return on investment.

[1] In this context, fair market value is the annual amount in cash or on terms reasonably equivalent to cash for which in all probability the property(ies) would be permitted to be used, sold, or leased by a knowledgeable owner willing but not obligated to permit the use or sell or lease the property(ies) to a knowledgeable permit holder, buyer, or lessee who desires but is not obligated to hold the permit or buy or lease the property(ies). In ascertaining that figure, consideration should be given to all matters that might be brought forward and reasonably be given substantial weight in bargaining by persons of ordinary prudence, but no consideration whatever should be given to matters not affecting market value (see Interagency Land Acquisition Conference, ''Uniform Appraisal Standards for Federal Land Acquisitions,'' pp. 3–4 (1992)).

Each business category has two rates: a rate base and a balance-of-sales rate. The rate base is the percentage of sales revenue the average ski area pays as a fee when sales revenue is up to twice the break-even point. A higher balance-of-sales rate is applied to all sales revenue exceeding twice the break-even point.

To account for varying levels of productivity, fees are calculated in three steps: (1) The fee applied to sales revenue up to the break-even point is 50 percent of the rate base; (2) the fee applied to sales revenue between the break-even point and twice the break-even point is 150 percent of the rate base; and (3) the fee applied to sales revenue over twice the break-even point is the balance-of-sales rate.

If a ski area generates income from more than one business category, each category's break-even point, rate base, and balance-of-sales rate are multiplied by the percentage of the ski area's total sales revenue that results from that category. Results for all categories are totaled to obtain a composite break-even point, rate base, and balance-of-sales rate. Composites are applied to gross sales revenue to determine the fee. Fee determinations for each ski area are periodically subject to audit by the Forest Service through the examination of each ski area's financial records.

GRFS has proven to be very controversial, primarily because of questions concerning whether GRFS meets the legal requirement to charge a permit fee based on the fair market value of the use of National Forest System lands by ski areas. The controversy surrounding GRFS and assessment of the appropriate permit fee has generated appeals and litigation and several audits by the General Accounting Office and the Department of Agriculture's Office of Inspector General. These audits concluded that GRFS does not ensure that the Forest Service receives a permit fee based on fair market value from ski areas operating on National Forest System lands.

Due to the historical controversy of the ski area permit fee issue and the need for multidisciplinary expertise in this area, a Departmental Working Group was formed in July 1994. This group, which includes representatives from the Forest Service, the Office of Inspector General, the Office of General Counsel, and the Office of the Chief Financial Officer, has met regularly to expedite development of a new ski area permit fee system based on fair market value.

Methods for Determining Fair Market Value

On September 26, 1994, the Forest Service awarded a contract to identify methods pertinent to determining the fair market value of the use of National Forest System lands by ski areas and to recommend promising methods for testing. The contractor assembled a team of specialists in various fields, including real estate appraisal, land economics, and financial analysis, to work on the contract.

The contractor's December 19, 1994, report analyzes 14 valuation techniques: Six land valuation methods (sales comparison, ground rent capitalization, land residual, sales allocation, extraction, and subdivision development); seven business valuation methods (capitalization of earnings, excess earnings on assets, excess earnings on sales, discounted cash flow, price/earnings ratio, dividend payout, and net worth); and one additional valuation method (competitive bidding). The report discusses the theoretical basis of each method, its advantages and disadvantages, the required frequency of updating for each method, and its applicability to assessing the fair market value of the use of National Forest System lands by ski areas. The report recommends testing seven valuation techniques in order of preference: four land valuation methods (sales comparison, ground rent capitalization, residual (both land and business), and allocation (in conjunction with land residual)) and three business valuation methods to be used in conjunction with the land valuation methods (capitalized earnings, excess earnings on assets, and excess earnings on sales).

At the request of the Departmental Working Group, the Forest Service contracted for a technical written review of the contractor's report by two expert real estate appraisers. The two real estate appraisers were asked to assess (1) whether the contractor's analysis identifies all pertinent techniques for determining the fair market value of the use of National Forest System lands by ski areas and (2) whether the methods recommended by the contractor for testing are the most likely methods on which a new ski area fee system could be based.

In their reports and during a teleconference with the Departmental Working Group, the two appraisers advised that the contractor's report covered all land valuation methods and the common business valuation methods. With regard to the contractor's recommendations, the appraisers advised that there is no need to test any of the business valuation methods because none of these methods gives an independent estimate of land value. Rather, these methods provide an estimate of the value of a business. Consequently, neither appraiser believed that any of the business valuation methods identified by the contractor would assist in estimating the fair market value of the use of National Forest System lands by ski areas.

To determine land value, one of the appraisers advised that the first and most important step is to develop a database of sale and rental transactions involving land used for skiing or for a use comparable to skiing. He stated that based on his own research and experience, data are available for comparable sales and rentals of land used for skiing.

The appraiser explained that once the database of comparable transactions is developed, the agency would be able to ascertain whether the fair market value of the use of National Forest System lands by ski areas can be determined. He advised that the direct comparison and ground rent capitalization methods would provide the most objective basis for making this determination.[2] From this information, the agency may then be able to decide whether subjective methods, such as land residual, should be considered.

Both appraisers underscored the weaknesses and subjectivity inherent in applying the land residual method, particularly in developing an estimate of business value[3] that is independent from the value of the land.[4] Neither

[2] The direct comparison method produces a value estimate for land by comparing the property being appraised to similar properties that have sold recently, applying appropriate units of comparison, and making adjustments to the sale prices of the comparables based on the elements of comparison (United States Department of Agriculture, Forest Service, ''An Analysis of Methodologies for Determining the Fair Market Value of the Use of National Forest System Land by Ski Areas'' [hereinafter Contractor's Report], p. 6 (1994)).

The ground rent capitalization method applies when property is leased for a ground rent or some other type of fee. Ground rent is the amount paid for the right to use and occupy land according to the terms of a ground lease. Market-derived capitalization rates are used to convert ground rent into the market value of the property. While a Forest Service ski area permit is not a lease and does not convey any interest in real property, the permit may be analogous to a lease for the purpose of assessing the applicability of the ground rent capitalization method to determine the fair market value of the use of National Forest System land by ski areas (Contractor's Report, pp. 10–11).

[3] Business value accrues from items of intangible personal property, such as marketing and managerial skill, an assembled work force, working capital, trade names, trademarks, franchises, patents, contracts, leases, and operating agreements (Contractor's Report, Glossary).

[4] The land residual method produces a value estimate for land as a component of an investment

appraiser knew of an accepted methodology for independently estimating business value, since it is always the final residual. Both appraisers agreed that the land residual method could be applied only as a back-up method to information gleaned from the direct comparison and ground rent capitalization methods.

Determination of Fair Market Value

The foregoing conclusions of the two appraisers were confirmed by the Departmental Working Group in informal discussions with the Assistant Chief Appraiser for the United States Department of Justice. In addition, the Departmental Working Group discussed the potential feasibility of performing site-specific appraisals to determine the fair market value of the use of National Forest System lands by ski areas. The Assistant Chief Appraiser informally advised that if site-specific appraisals were performed, they should be complete, self-contained appraisals prepared in accordance with the latest editions of the ''Uniform Standards of Professional Appraisal Practice,'' published by the Appraisal Foundation, and the ''Uniform Appraisal Standards for Federal Land Acquisitions,'' published by the Interagency Land Acquisition Conference. The purpose of the appraisal would be to determine the fair market value of the use of National Forest System lands by ski areas.

Specifically, he explained that the most defensible approach would be to research leases of land comparable to the subject property, i.e., land suitable for nordic and alpine skiing. The appraiser would analyze these leases to estimate the market rent for the comparable land, which would be the fair market value fee for the subject property.

If there were inadequate market data to use this approach, the appraiser would research and analyze sales of land comparable to the subject property to estimate the market value of this land and compare it with the subject property, making whatever adjustments were necessary. Using the market value of the land derived from comparable sources, the appraiser would determine the market value of the subject property. Using the lease transactions and any other information available (e.g., the rate of return on purchased land), the appraiser would estimate a market-derived rate of return: the percentage to apply to land value to determine a fair market value fee for the use of the land. The appraiser would then apply the market-derived rate of return to the market value of the subject property to determine the fair market value fee for the use of the subject property.

To confirm the soundness of using site-specific appraisals, the Departmental Working Group conducted additional discussions with appraisers from several Federal agencies and one appraiser outside the Federal Government. These appraisers agreed that site-specific appraisals are the best tool for developing a new permit fee system.

Based on the contractor's report, the subsequent peer review of that report, discussions with appraisers, and internal research and discussions of the information gathered, the Forest Service decided that a permit fee system based on site-specific appraisals is the most technically and legally defensible way to meet the fair market value requirement in the National Forest Ski Area Permit Act.

The agency believes that this approach would produce ski area permit fees that are based on fair market value as required by law; simplify the fee system; eliminate the need for burdensome audits of ski area assets and revenues for those ski areas under the new system; and make fee determinations in a nationally consistent manner. The site-specific appraisals would produce value determinations derived from the market. Rather than using a complex formula like GRFS, the new system would establish permit fees by site-specific appraisal. The new system would replace annual Forest Service calculation and verification of permit fees with agency monitoring to ensure that ski areas pay the annual permit fee determined by site-specific appraisal. Ski areas under the new system would not have to undergo detailed agency audits of their financial records for purposes of verifying fee determinations. Fee determinations under the new system would be nationally consistent because they would be determined by site-specific appraisals performed under a contract awarded and administered by the Forest Service headquarters office in Washington, D.C.

Site-Specific Appraisals

At approximately the same time as this proposed policy is published in the **Federal Register**, the Forest Service will award a 1-year contract (with four consecutive options to renew) to perform site-specific appraisals of the 137 alpine and alpine and nordic ski areas operating on National Forest System lands.[5] Permit fees for each of these ski areas would be determined directly by site-specific appraisal. At this point, the agency anticipates that these appraisals would be updated every five years, based on the five-year cycle for performing site-specific appraisals. Disputes concerning fee determinations under the new policy would be subject to the agency's administrative appeal regulations at 36 CFR part 251, subpart C.

In the first year of the contract, site-specific appraisals will be performed of a sample of 27 ski areas in six different strata based on size of operation and type of fees paid. The universe for the stratified simple random sampling design consists of 120 ski areas identified from GRFS sales revenue data for fiscal year 1991 (the fiscal year for which the most recent information is available), compiled as of January 1995, and 17 ski areas that pay annual flat permit fees based on GRFS principles, or a percentage of land value.

Based on GRFS sales revenue for fiscal year 1991, the 120 ski areas were grouped into strata 1 to 5. The 17 ski areas that pay annual flat fees based on GRFS principles or a percentage of land value were placed in stratum 6.

Six ski areas with zero GRFS sales revenue were placed in stratum 1, and the largest ski area with GRFS sales revenue of over $40 million was placed in stratum 5. The 113 remaining ski areas were placed in strata 2 through 4 using the Cumulative Square Root of the Frequencies methodology (W. Cochran, ''Sampling Techniques,'' pp. 127–131 (3d ed. 1977)), with respect to the GRFS sales revenue for those ski areas. Fifty-one ski areas with $0 to $2 million in GRFS sales revenue were placed in stratum 2; 33 ski areas with over $2 million and up to $7.3 million in GRFS sales revenue were placed in stratum 3; and 29 ski areas with more than $7.3 and up to $40 million in GRFS sales revenue were placed in stratum 4.

Within each stratum, ski areas were randomly selected for order of appraisal. The ski areas in stratum 1 were selected with equal probability, without replacement. The ski areas in strata 2 through 4 were selected with respect to their GRFS sales revenue using probability proportional to size without replacement. The single ski area in stratum 5 was selected with probability

by capitalizing the net income allocated to land after the net income attributable to all other investment components has been deducted from the total net income (Contractor's Report, p. 11).

[5] There are a small number of nordic ski areas that are authorized independently from alpine ski areas under a Forest Service commercial special use permit. These nordic ski areas are covered by the National Forest Ski Area Permit Act, but would not be subject to the new permit fee system unless site-specific appraisals are performed for these areas.

equal to one. The ski areas in stratum 6 were selected with equal probability without replacement.

The ski areas in each stratum were distributed as evenly as possible over a five-year period. Site-specific appraisals will be preformed for all 137 ski areas, with samples of 27 ski areas selected for years 1 through 3 and samples of 28 ski areas selected for years 4 and 5.

Applicability of New Permit Fee System

This proposed policy would automatically apply only to those ski areas whose permits are issued under the National Forest Ski Area Permit Act. Unlike permits issued under other authorities, these permits contain a clause that allows the Forest Service to apply any new permit fee system to the ski areas authorized by those permits (36 CFR 251.57(h)). This clause currently states that GRFS—

> May be replaced in its entirety by the Chief of the Forest Service if a new generally applicable fee system is imposed affecting all holders of authorizations under Public Law 99–522 [the National Forest Ski Area Permit Act]. Replacement shall become effective on the beginning of the holder's business year following establishment.

Ski Area Term Special Use Permit, Clause VI.A.2.

The new permit fee system would be applied to ski areas whose permits are issued under the National Forest Ski Area Permit Act and that are included in the first year of the appraisal contract only after the work performed for that year has been completed, reviewed, and accepted by the Forest Service. The new permit fee system would be applied to ski areas whose permits are issued under the National Forest Ski Area Permit Act and that are included in subsequent years of the appraisal contract only after the work performed for those years has been completed, reviewed, and accepted by the Forest Service. The agency intends to have the new permit fee system in effect for the 1996–97 ski season for those ski areas that are included in the first year of the appraisal contract and whose permits are issued under the National Forest Ski Area Permit Act.

Ski area whose permits are not issued under the National Forest Ski Area Permits Act would be placed under the new permit fee system when they receive a new permit or when they elect to have their existing permits amended. Any amendment to an existing permit would include the new ski area permit fee clause; preference would be given to issuing a new permit under the National Forest Ski Area Permit Act. New permits for ski areas would be issued under the National Forest Ski Area Permit Act and placed under the new system.

The new fee system would not apply to any other permit holders who pay permit fees to the Forest Service under GRFS.

Public Meeting and Other Public Input Already Received

On February 1, 1995, the Forest Service held a public meeting to obtain input on whether the agency had identified pertinent methods for determining the fair market value of the use of National Forest System lands by ski areas. The Forest Service made a compilation of the methods identified by the contractor available to the public as a basis for providing input. Notice of this meeting was published in the **Federal Register** on January 19, 1995 (60 FR 3835, Jan. 19, 1995). The agency also accepted written comments until February 10, 1995. No methods other than those identified by the contractor were suggested by members of the public.

Nine comments were received, four at the meeting and five in writing. Two respondents commented that the Federal Government needs to get fair market value for the use of National Forest System lands. One of these respondents noted that if the public does not receive fair market value for the use of Federal land, the private activity that occurs on that land is being subsidized and the market for that type of land is distorted. Two other respondents stated that a new fee system should yield the same return as GRFS or a fair return for the use of National Forest System lands.

One respondent commented that the fair market value of National Forest System lands used by ski areas would be very low without timber or the improvements made by ski areas.

Another respondent stated that the National Forest System lands used have no inherent income-producing capability and that the ski industry's return to the Government on what would otherwise be unimproved land is very good, about $180 to $200 per acre per year, compared to $1.80 per head month for Federal land used for grazing. This respondent further commented that operating a ski area is like snow farming without a Government subsidy: the Government makes money even if the ski areas operating on National Forest System lands do not.

Another respondent commented that there is a necessary partnership between the public and private sectors, given that the Government is a risk avoider and that the private sector is a risk taker. This respondent commented that the Government does not have experience at taking risks and therefore cannot assess risks as well as the private sector. This respondent noted that the ski industry adds value to the National Forest System lands used for skiing, resulting in revenue for the Government. This respondent stated that without this private sector investment, the Government would not get any revenues. This respondent also noted that there are three cardinal rules of real estate: Location, location, and location.

Four respondents commented on GRFS. One noted that some of the revenue from privately owned facilities at the base of the mountain is counted in the GRFS calculation that would not be included if someone besides the permit holder owned those facilities, and that GRFS seems arbitrary as applied to revenue from those facilities.

Two respondents noted that while GRFS has outlived itself, many studies on a new fee system have been done, more studies are unnecessary, and the studies and data available should be used to make a decision on a new system.

One respondent commented that his ski area had flourished under GRFS because of GRFS's ability to adjust the marginal fee rates in response to poor versus good snow years; GRFS's ability to reward capital investment by assigning a lower average fee rate to ski areas with a higher GFA; and his ski area's being totally on National Forest System lands and not having to deal with the complexities of accounting for revenues generated from both National Forest System and private land. This respondent suggested that a new permit fee system should adjust for poor versus good snow years; provide incentives for capital investment; ease the administrative burden on small ski areas; and provide methods for determining fees when part of a ski area's revenues are derived from other than the use of National Forest System lands.

Another respondent criticized the ski area permit fee legislation proposed in 1992, because it did not address the fair market value of the use of National Forest System lands (this respondent stated that the proposed bill was based on a percentage of revenue); because it did not provide incentives for capital improvements that give ski areas a break in fees during their initial start-up periods; and because it did not adjust permit fees for poor snow years. This respondent commented that GRFS is better than the legislation proposed in 1992.

Five respondents commented that the new fee system should be simple. One

respondent commented that there are a lot of expenses associated with a ski area, such as fixed assets and snowmaking, and that it is difficult to determine the value of the lands used by a ski area.

Three respondents noted that a new permit fee system should be consistently applied to ski areas operating on National Forest System lands. One respondent noted that GRFS is subject to too many interpretations. Another commented that a new system should ensure that ski areas of different sizes and characteristics pay equitable permit fees. Four others stated that the new system should balance permit fees between small and large ski areas.

One respondent commented that agency regulations allow for too much flexibility and that industry wants legislation for stability. This respondent noted that the stability of the fee determination should correspond to the stability of the 40-year ski area permit, but that industry would not object to scheduled updating of a legislated fee formula.

One respondent stated that while use of National Forest System lands by private, profit-generating activities may be both beneficial and desirable, commercial permit holders have a responsibility to be conscientious stewards of the land.

Federal Advisory Committee

A federal advisory committee was established on February 17, 1995, to advise the Secretary of Agriculture on development of the new ski area permit fee system (60 FR 9321, Feb. 17, 1995). A notice requesting nominations to the advisory committee was published in the **Federal Register** on February 24, 1995 (60 FR 10346, Feb. 24, 1995). The advisory committee will review and report on the proposed policy during the comment period. The advisory committee's comments will be addressed in the final policy.

Proposed Manual and Handbook Revision

Detailed direction on GRFS is currently set forth in Forest Service Manual (FSM) Chapter 2710, Special Uses Management, Section 2715, Fees. Any outdated Manual direction will be revised or removed when the final policy on the new ski area permit fee system is issued in Forest Service Handbook (FSH) 2709.11, Special Uses Handbook, Chapter 30, Fee Determination, Section 38, Ski Area Permit Fees.

The policy in FSM Chapter 2720, Special Uses Administration, Section 2721.6, Winter Recreation, would be clarified and revised to replace GRFS with the revised system basing ski area permit fees on site-specific appraisals for those ski areas whose permits are issued under the National Forest Ski Area Permit Act. The form number cited in this section for ski area permits issued under the National Forest Ski Area Permit Act also would be changed from Form FS–2700–24 to Form FS–2700–5b, Ski Area Term Special Use Permit. The new permit fee clause would appear in FSH 2709.11, Special Uses Handbook, Chapter 50, Terms and Conditions, Section 53.1, Fees and Payments, Clause A–19, and in the revised Form FS–2700–5b. The proposed policy from FSM Chapter 2720 and FSH 2709.11, Chapters 30 and 50, appears at the end of this notice.

Summary

The Forest Service believes that establishing ski area permit fees by site-specific appraisal would produce ski area permit fees that are based on fair market value as required by law; would be simpler and less costly to administer than GRFS; would eliminate the need for burdensome audits of ski area assets and revenues for those ski areas under the new system; and would make individual fee determinations in a nationally consistent manner.

Regulatory Impact

This proposed policy was reviewed under Executive Order 12866 on Regulatory Planning and Review. The agency has determined that the proposed policy is a significant action subject to Office of Management and Budget (OMB) review because of the strong public interest expressed in a new permit fee system for ski areas operating on National Forest System lands.

Moreover, this proposed policy was considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Permit fees for ski areas operating on National Forest System lands must without exception be based on fair market value (16 U.S.C. 497b(b)(8); 31 U.S.C. 9701; 36 CFR 251.57). In accordance with the Regulatory Flexibility Act, the agency has conducted an initial Regulatory Flexibility Analysis regarding the impact of this proposed policy on small entities. The agency does not currently have all the data necessary for a comprehensive analysis of the effects of this proposed policy on small entities. Therefore, the agency is inviting comments concerning potential impacts. In particular, the agency is interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed policy.

No Takings Implications

This proposed policy was reviewed for its impact on private property rights under Executive Order 12630 of March 15, 1988, as implemented by the United States Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings. Executive Order 12630 would not apply to this proposed policy because it consists of administrative changes governing authorization of the use and occupancy of National Forest System lands. Forest Service ski area permits do not grant any title or interest in lands or resources held by the United States.

Civil Justice Reform Act

This proposed policy was reviewed under Executive Order 12778, Civil Justice Reform. If this proposed policy is adopted, (1) all state and local laws and regulations that conflict with this proposed policy or that impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed policy; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burdens on the Public

The information collection requirements that would be imposed by this proposed policy and the new clause for the ski area permit form have been approved for use by OMB through June 30, 1996, and assigned control number 0596–0082. The agency estimates that the public reporting burden for the collection of information in the proposed policy and the new clause for the ski area permit form would be 12 hours per response.

Categorical Exclusion

This proposed policy would consist primarily of technical and administrative changes related to the authorization of occupancy and use of National Forest System lands. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180, Sept. 18, 1992) categorically excludes from documentation in an environmental assessment (EA) or environmental impact statement (EIS) ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes or instructions.'' The agency's preliminary assessment is that this proposed policy falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an EA or

an EIS. A final determination will be made upon adoption of the final policy.

Dated: April 25, 1995.

Jack Ward Thomas,

Chief.

Proposed Manual and Handbook Revision

The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only those sections of the Forest Service Manual (FSM) and Handbook (FSH) that are the subject of this notice are set out here. The audience for this direction is Forest Service employees charged with issuing and administering special use permits for ski areas.

Forest Service Manual

Chapter 2720—Special Uses Administration

Section 2721.6—Winter Recreation

2721.61b—Permit Fees. See FSH 2709.11, sections 38.1 and 38.2, for direction on permit fee determinations for ski areas.

2721.61e—Ski Area Permit.

1. Use the National Forest Ski Area Permit Act (16 U.S.C. 497b) and Form FS–2700–5b, Ski Area Term Special Use Permit (FSH 2709.11, sec. 38.1 and 38.2, and 53.1, Clause A–19) to issue new permits for nordic and alpine ski areas.

4. Use the Land and Water Conservation Fund Act (16 U.S.C. 4601–6a(c)) and Form FS–2700–4, Special-Use Permit (FSH 2709.11, sec. 41.) to issue permits for nordic skiing conducted by an outfitter or guide, except when this activity is associated with a ski area subject to the National Forest Ski Area Permit Act.

6. Initiate conversion of existing ski areas to the new permit by writing to current holders, providing them with a blank copy of Form FS–2700–5b, Ski Area Term Special Use Permit, and inviting them to meet individually with the authorized officer or his or her representative to discuss the terms and conditions. The principal areas to be agreed upon are the permit boundary and length of term.

[Following are revised subparagraphs listing examples of conditions which could justify shorter tenure as provided by paragraph 7:]

7d. Capital investment in the ski area is less than $1 million.

7e. Ownership of the improvements is in transition, for example, in trust, in receivership, or listed for sale.

7f. Public service required in the existing permit is not being provided.

Forest Service Handbook 2709.11—Special Uses Handbook

Chapter 30—Fee Determination

38—Ski Area Permit Fees. This section establishes Forest Service policy for determining permit fees for the use of National Forest System lands by ski areas.

38.01—Authority. (FSM 2701.1; sec. 30.1). The following authorities require that permit fees for ski areas operating on National Forest System lands be based on fair market value: National Forest Ski Area Permit Act (16 U.S.C. 497b), Independent Offices Appropriations Act (31 U.S.C. 9701), and Forest Service special use regulations on permit fees (36 CFR 251.57).

38.02—Objective. Collect permit fees based on the fair market value of the use of National Forest System lands by ski areas.

38.03—Policy. Determine permit fees for ski areas according to one of the following methods as directed by section 38.1:

1. Site-specific appraisal;
2. Graduated rate fee system (GRFS) (FSM 2715); or
3. Flat rate (FSM 2715.14).

38.04—Responsibility.

38.04a—Washington Office, Director, Recreation, Heritage, and Wilderness Resources Staff. The Washington Office Director of Recreation, Heritage, and Wilderness Resources has the responsibility to:

1. Award and administer contracts for performing and updating site-specific appraisals for the use of National Forest System lands by ski areas, in coordination with the Lands Staff and the Procurement and Property Staff and with review by the Office of the General Counsel.

2. Obtain and address recommendations in reports from the Washington Office Director of Fiscal and Accounting Services on review of the objectivity and integrity of the process used to establish or update permit fees based on fair market value by site-specific appraisal.

3. Establish and amend permit fees that are determined by site-specific appraisal of the use of National Forest Service lands by ski areas.

4. Distribute, with supporting documentation, permit fee determinations that are assessed by site-specific appraisal to the Forest Supervisors responsible for administering those fee determinations.

38.04b—Washington Office, Director, Lands Staff. The Washington Office Director of Lands has the responsibility to:

1. Provide technical assistance to the Washington Office Director of Recreation, Heritage, and Wilderness Resources to award and administer contracts for performing and updating site-specific appraisals.

2. Provide a team of qualified appraisers to:

a. Review site-specific appraisals; and

b. Prepare a review appraisal report for site-specific appraisals.

38.04c—Washington Office, Director, Fiscal and Accounting Services Staff. The Washington Office Director of Fiscal and Accounting Services has the responsibility to:

1. Monitor and report to the Washington Office Director of Recreation, Heritage, and Wilderness Resources on the objectivity and integrity of the process used to establish or update permit fees for ski areas based on fair market value by site-specific appraisal. The process includes but is not limited to contracting for the services of a qualified appraiser, work performed by the contractor, review and acceptance of the contractor's work, and actions to establish permit fees for ski areas from the work performed under contract.

2. Review adherence to Forest Service policy for ski area permit fees determined by site-specific appraisal to ensure that the amount paid by the ski areas corresponds to the amount determined by site-specific appraisal; report any discrepancies to the Director of Recreation, Heritage, and Wilderness Resources.

3. Review adherence to Forest Service policy on ski area permit fees determined by site-specific appraisal to ensure that site-specific appraisals are updated in accordance with Forest Service policy and permit requirements; report any discrepancies to the Director of Recreation, Heritage, and Wilderness Resources.

4. Establish guidelines for auditing ski area permit fees determined under GRFS and review adherence to Forest Service policy on GRFS and permit requirements; report any discrepancies to the Director of Recreation, Heritage, and Wilderness Resources.

5. Establish guidelines for auditing ski area permit fees determined by a flat rate and review adherence to Forest Service policy on flat rate fees and permit requirements; report any discrepancies to the Director of Recreation, Heritage, and Wilderness Resources.

38.04d—Authorized Officer. The authorized officer has the responsibility to:

1. Amend ski area permits issued under the National Forest Ski Area

Permit Act in conformance with direction in sections 38.11b and 38.12c.

2. Amend ski area permits issued under authorities other than the National Forest Ski Area Permit Act in conformance with direction in sections 38.11b and 38.12c when:

a. The holder agrees to the amendment; or

b. The holder elects to have the permit amended for any other purpose.

3. Issue new ski area permits under the National Forest Ski Area Permit Act in conformance with direction in section 38.2.

4. Establish ski area permit fees that are determined under GRFS (sec. 38.12a).

5. Establish ski area permit fees that are determined by a flat rate (sec. 38.12b).

6. Bill holders for their use and occupancy of National Forest System lands.

7. Ensure that holders are informed of their responsibility to pay their permit fees promptly and in full.

38.1—Permit Fees for Existing Ski Area Permits.

38.11—Permits Issued Under National Forest Ski Area Permit Act. Determine permit fees by site-specific appraisal for all ski areas whose permits are issued under the National Forest Ski Area Permit Act. These permit fees apply to all activities associated with the use and occupancy authorized by the corresponding ski area permits, including nordic and alpine skiing, outfitting and guiding, and recreation events. Appraisals will be reviewed and periodically updated.

38.11a—Effective Date of Permit Fee System Based on Site-Specific Appraisal. If applicable, the determination of permit fees by site-specific appraisal becomes effective on the first day of the holder's business year immediately following implementation of this system and appraisal of the holder's use of National Forest System land.

38.11b—Amendment of Existing Ski Area Permits. Amend ski area term special use permits issued under the National Forest Ski Area Permit Act by replacing the former Clause VI in the permits with the current Clause VI as it appears in Form FS–2700–5b and section 53.1, Clause A–19, of this Handbook. When amending ski area term special use permits that were not issued under the National Forest Ski Area Permit Act (sec. 38.12c), replace the current permit fee clause in the permits with Clause VI as it appears in Form FS–2700–5b and section 53.1, Clause A–19, of this Handbook.

38.12—Ski Area Permits Not Issued Under National Forest Ski Area Permit Act.

38.12a—Graduated Rate Fee System. Determine permit fees under GRFS (FSM 2715.11) for any ski areas whose permits are not issued under the National Forest Ski Area Permit Act and whose annual permit fees were determined under GRFS prior to [date when the system based on site-specific appraisal was implemented], unless the holders elect to have their permits amended (sec. 38.12c).

38.12b—Flat Rate. Determine permit fees by a flat rate (FSM 2715.14) for any ski areas whose permits are not issued under the National Forest Ski Area Permit Act and whose annual permit fees were determined by a flat rate prior to [date when the system based on site-specific appraisal was implemented], unless the holders elect to have their permits amended (sec. 38.12c).

38.12c—Site-Specific Appraisal. Determine permit fees by site-specific appraisal for ski areas whose permits are not issued under the National Forest Ski Area Permit Act when:

1. Holders agree to have permit fees determined in this manner; or

2. Holders elect to have their permits amended for any other purpose. The authorized officer shall give preference to issuing a new permit under the National Forest Ski Area Permit Act.

These permit fees apply to all activities associated with the use and occupancy authorized by the corresponding ski area permits, including nordic and alpine skiing, outfitting and guiding, and recreation events. Appraisals will be reviewed and periodically updated.

38.2—Permit Fees for New Ski Area Permits.

1. Issue all new ski area permits under the National Forest Ski Area Permit Act.

2. Use Form FS–2700–5b, Ski Area Term Special Use Permit, which requires permit fees to be determined by site-specific appraisal. Appraisals will be reviewed and periodically updated.

38.3—Billing. Require holders to pay their annual permit fees on the first day of their business year for that year's use and occupancy of National Forest System lands according to the following:

1. If the annual fee is $10,000 or less per year, payment is due in full on the first day of the holder's business year. Bill holders 30 days in advance of the first day of their business year.

2. If the annual fee exceeds $10,000, holders may pay quarterly, with 25 percent of the annual fee due on the first day of each quarter of the holder's business year. Bill holders 30 days in advance of the first day of each quarter.

Chapter 50—Terms and Conditions

53.1—A—Fees and Payments.

19. *Clause for Ski Area Permit Fees Based on Site-Specific Appraisal.* See sections 38.11b and 38.2 of this Handbook for direction on use of this clause.

VI. PERMIT FEES

A. *Determination of Permit Fees by Site-Specific Appraisal.* The holder shall pay fair market value, as determined by site-specific appraisal performed by a Forest Service contractor, agent, employee, or other representative, for the use and occupancy of National Forest System lands authorized by this permit. These appraisals shall be performed in accordance with the latest editions of the ''Uniform Standards of Professional Appraisal Practice,'' published by the Appraisal Foundation, and the ''Uniform Appraisal Standards for Federal Land Acquisitions,'' published by the Interagency Land Acquisition Conference. In case of a conflict between these two standards, the latter shall take precedence.

B. *Access to Records.*

1. For the purpose of administering this permit, including performing or updating a site-specific appraisal of the use and occupancy authorized by this permit to determine the permit fee, the holder shall make all of the accounting books and supporting records for the business activities conducted under this permit (including any documentation relating to the past or future sale of the improvements authorized by this permit), as well as those of sublessees and franchises operating under the authority of this permit, available for analysis by contractors, agents, employees, or other representatives of the Forest Service or Federal agencies authorized to review Forest Service activities.

2. Review of accounting books and supporting records shall be performed on dates convenient to the holder and reviewers.

3. Financial information obtained under this clause shall be treated as confidential to the extent authorized by law.

4. The holder shall retain and keep available for review accounting books and supporting records for the business activities conducted under this permit for 5 year after they are created, unless this requirement is waived by the authorized officer in writing.

c. *Corrections in Fee Determinations.* Any errors in fee determinations shall

be corrected retroactively, and a bill showing the correct permit fee shall be sent to the holder for the period covered by the original bill. Errors in fee determinations include but are not limited to those based on misrepresentation of amounts, arithmetic or typographical mistakes, or variation from generally accepted accounting principles, the ''Uniform Standards of Professional Appraisal Practice,'' or the ''Uniform Appraisal Standards for Federal Land Acquisitions.'' Any changes in fee determinations resulting from amendment or replacement of the ski area permit fee system shall be made prospectively.

D. *Updating of Appraisals.* As needed, the Forest Service may update the site-specific appraisals used to establish the permit fee under Clause VI. If a new permit fee is determined by an updated site-specific appraisal, the new permit fee shall become effective on the first day of the holder's business year immediately following the date of the Forest Service review appraisal report on the updated appraisal report.

E. *Permit Fee Payments.* Permit fee payments shall be due within 30 days of receipt of a bill and shall be submitted to the Collection Officer, United States Department of Agriculture, Forest Service, at the address provided by the authorized officer. Checks or money orders shall be made payable to the United States Department of Agriculture, Forest Service.

F. *Interest and Penalties.*

1. Under 31 U.S.C. 3717 and 7 CFR Part 3, Subpart B, or subsequent changes to those authorities, interest shall be charged on any permit fee payment that is not received on the date it is due.

2. Interest shall be assessed using the higher of (1) The most current rate prescribed by the United States Department of the Treasury Financial Manual (TFM–6–8025.40) or (2) the prompt payment rate prescribed by the United States Department of the Treasury under Section 12 of the Contract Disputes Act (41 U.S.C. 611). Interest shall accrue from the date the permit fee payment is due.

3. Administrative charges may be assessed to cover processing and handling of delinquent permit fee payments.

4. A penalty of 6 percent per year shall be assessed on any permit fee payment that is more than 90 days overdue and shall accrue from the date the fee payment is due. This penalty is in addition to any interest and other charges assessed under Clauses VI.F.1–3.

5. Delinquent permit fee payments, interest, penalties, and any other charges assessed under Clause VI.F shall be subject to all the rights and remedies afforded the United States under federal law and implementing regulations (31 U.S.C. 3711 et seq.).

G. *Consequences of Nonpayment.* The holder's failure to make timely payment of any permit fees, interest, penalties, or other charges assessed under Clause VI.F shall be grounds for revocation of this permit. This permit terminates when any payments owed under Clause VI are more than 90 days overdue.

H. *Accounting Records.* The holder shall follow generally accepted accounting principles or other comprehensive bases of accounting acceptable to the Forest Service in recording financial transactions and in reporting results to the authorized officer. When requested by the authorized officer, the holder at its expense shall have its annual accounting reports audited or prepared by a licensed independent accountant acceptable to the Forest Service. When requested by the authorized officer, the holder at its expense shall prepare and maintain any special records and accounts that may be specified by the authorized officer. The holder shall require sublessees and franchises to comply with these same requirements.

I. *Financial Statements.* Within 3 months of the last day of the holder's business year, the holder shall provide financial statements representing the holder's financial condition as of the last day of the holder's business year and the results of the holder's operation for that year. When requested by the authorized officer, the holder shall require sublessees to comply with this requirement.

J. *Replacement of Permit Fee System.* The system requiring ski area permit fees to be determined by site-specific appraisal may be replaced in its entirety by the Chief of the Forest Service with a new permit fee system if it applies to all holders of permits issued under the National Forest Ski Area Permit Act. The new permit fee system shall become effective on the first day of the holder's business year immediately following implementation of the new system.

[FR Doc. 95–17131 Filed 7–12–95; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on Wednesday, August 2, 1995, at Reichhold Chemicals, Inc., Conference Room 15, 3rd Floor, 2400 Ellis Road, Research Triangle Park, North Carolina 27703. The purpose of the meeting is: (1) to discuss the status of the Commission and its Advisory Committees; (2) to hear reports on civil rights progress and/or problems in the State; (3) hear a report on the Chairpersons' meeting held in Washington; and, (4) to hold a brief orientation session for new members.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Asa Spaulding, Jr., at 919–990–7689 or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 6, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–17133 Filed 7–12–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 752]

Designation of New Grantee For Foreign-Trade Zone 103, Grand Forks, North Dakota; Resolution and Order

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (FTZ Docket 25–94, filed 6/10/94) of the Grand Forks Development Foundation, grantee of Foreign-

Trade Zone 103, Grand Forks, North Dakota, for reissuance of the grant of authority for said zone to the Grand Forks Regional Airport Authority, a North Dakota public corporation, which has accepted such reissuance subject to approval of the FTZ Board, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Grand Forks Regional Airport Authority as the new grantee of Foreign-Trade Zone 103, Grand Forks, North Dakota.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 5th day of July 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–17229 Filed 7–12–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 756]

Grant of Authority for Subzone Status; Siemens Industrial Automation, Inc. (Industrial Automation Products), Carter County, Tennessee

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Tri-City Airport Commission, grantee of Foreign-Trade Zone 204, for authority to establish special-purpose subzone status at the industrial automation products distribution/manufacturing facility of Siemens Industrial Automation, Inc., in Carter County, Tennessee, was filed by the Board on May 10, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 19–94, 59 FR 25885, 5–18–94) (amended, 3–23–95, 60 FR 16604, 3–31–95); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 204A) at the plant site of Siemens Industrial Automation, Inc., in Carter County, Tennessee, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 5th day of July 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–17230 Filed 7–12–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 753]

Revision of Grant of Authority Subzone 122L; Koch Refining Company (Oil Refinery), Corpus Christi, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the refinery complex of Koch Refining Company in Corpus Christi, Texas, in 1991, subject to two conditions (Subzone 122L, Board Order 535, 56 FR 43905, 9/5/91);

Whereas, the Port of Corpus Christi Authority, grantee of FTZ 122, has requested pursuant to § 400.32(b)(1)(i), a revision (filed 5/8/95, A(32b1)–6–95; FTZ Doc. 31–95, assigned 6/16/95) of the grant of authority for FTZ Subzone 122L which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now Therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 535 is revised to replace the two conditions currently listed in the Order with the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

— Petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—Products for export; and,
—Products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 5th day of July 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–17228 Filed 7–12–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–428–816]

Certain Cut-To-Length Carbon Steel Plate From Germany: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by one respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on Certain Cut-To-Length Carbon Steel Plate from Germany (A–428–816). This review covers one manufacturer/exporter of the subject merchandise to the United States during the period of review (POR) February 4, 1993, through July 31, 1994.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Decker, Bruce Harsh or Linda Ludwig, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

On July 9, 1993, the Department published in the **Federal Register** (58 FR 37136) the final affirmative antidumping duty determination on certain cut-to-length carbon steel plate from Germany, for which we published an antidumping duty order on August 19, 1993 (58 FR 44170). On August 3, 1994, the Department published the notice of ''Opportunity to Request an Administrative Review'' of this order for the period February 4, 1993, through July 31, 1994 (59 FR 39543). The respondent, AG der Dillinger Hüttenwerke (Dillinger), requested an administrative review. We initiated the review on September 8, 1994 (59 FR 46391). The Department is conducting this review, in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The products covered by this administrative review constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been—''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is February 4, 1993, through July 31, 1994. This review covers sales of certain cut-to-length plate by Dillinger.

United States Price

All of Dillinger's U.S. sales were based on the price to the first unrelated purchaser in the United States. The Department determined that purchase price, as defined in section 772 of the Tariff Act, was the appropriate basis for calculating USP. All sales were made through Francosteel, a related sales agent in the United States, to unrelated purchasers. Whenever sales are made prior to the date of importation through a related sales agent in the United States, we typically determine that purchase price is the most appropriate determinant of the USP based upon the following factors: (1) The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related shipping agent; (2) direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise between the parties involved; and (3) the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers. See Certain Stainless Steel Wire Rods from France: Final Determination of Sales at Less than Fair Value, 58 FR 68865, 68868 (December 29, 1993); Granular Polytetrafluoroethylene Resin from Japan: Final Results of Antidumping Duty Administrative Review, 58 FR 50343, 50344 (September 27, 1993). In the present review, we found that: the essential terms of sale were set prior to importation; the merchandise was shipped immediately to the customer upon importation into the United States, without being introduced into the inventory of the related shipping agent; direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise; the merchandise was not warehoused by Francosteel during the normal course of business; and the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers. We made adjustments to purchase price, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. and foreign brokerage and handling, U.S. duty, and U.S. inland freight.

We also adjusted USP for taxes in accordance with our practice as outlined in various determinations, including Silicomanganese from Venezuela; Final Determination of Sales at Less Than Fair Value, 59 FR 55435, 55439 (November 7, 1994). No other adjustments were claimed or allowed.

Foreign Market Value

Based on a comparison of the volume of home market and third country sales, we determined that the home market was viable. Therefore, in accordance with section 773(a)(1)(A) of the Tariff Act, we based FMV on the packed, delivered price to unrelated purchasers in the home market, using date of shipment as date of sale (see Analysis Memorandum to the File, May 25, 1995).

Based on a review of Dillinger's submissions, the Department determined that only a small percentage of Dillinger's U.S. sales were the same grades of steel as the home market sales made by Dillinger's related parties to the first unrelated party (downstream sales). Accordingly, the Department determined that Dillinger need not report its home market downstream sales because they could provide potential matches to only a very small portion of the company's reported U.S. sales.

Based on the Department's previous determination of sales made at below the cost of production (COP) in the original less-than-fair-value (LTFV) investigation, in accordance with section 773(b) of the Tariff Act, we determined that there were reasonable grounds to believe or suspect that, for this review period, Dillinger made sales of subject merchandise in the home market at prices less than the COP. As a result, we investigated whether Dillinger sold such or similar

merchandise in the home market at prices below the COP. In accordance with 19 CFR 353.51(c), we calculated COP for Dillinger as the sum of reported materials, labor, factory overhead, and general expenses. We compared COP to home market prices, net of price adjustments, discounts, and movement expenses.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made in substantial quantities over an extended period of time, and whether such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade.

In accordance with our normal practice, for each model for which less than 10 percent, by quantity, of the home market sales during the POR were made at prices below COP, we included all sales of that model in the computation of FMV. For each model for which 10 percent or more, but less than 90 percent, of the home market sales during the POR were priced below COP, we excluded those sales priced below COP, provided that they were made over an extended period of time. For each model for which 90 percent or more of the home market sales during the POR were priced below COP and were made over an extended period of time, we disregarded all sales of that model in our calculation and, in accordance with section 773(b) of the Tariff Act, we used the constructed value (CV) of those models, as described below. See, *e.g.*, Mechanical Transfer Presses from Japan, Final Results of Antidumping Duty Administrative Review, 59 FR 9958 (March 2, 1994).

In accordance with section 773(b)(1) of the Tariff Act, to determine whether sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost occurred for a particular model to the number of months in which that model was sold. If the model was sold in fewer than three months, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in three or more months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold. We used CV as the basis for FMV when an insufficient number of home market sales were made at prices above COP. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews, 58 FR 64720, 64729 (December 8, 1993).

Because Dillinger provided no indication that its below-cost sales of models within the ''greater than 90 percent'' and the ''between 10 and 90 percent'' categories were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade, we disregarded those sales of models within the ''10 to 90 percent'' category which were made below cost over an extended period of time. In addition, as a result of our COP test for home market sales of models within the ''greater than 90 percent'' category, we based FMV on CV for all U.S. sales for which there were insufficient sales of the comparison home market model at or above COP. Finally, where we found, for certain of Dillinger's models, home market sales for which less than 10 percent were made below COP, we used all home market sales of these models in our comparisons.

We also used CV as FMV for those U.S. sales for which there was no sale of such or similar merchandise in the home market. We calculated CV in accordance with section 773(e) of the Tariff Act. We included the cost of materials, labor, and factory overhead in our calculations. Where the general expenses were less than the statutory minimum of 10 percent of the cost of manufacture (COM), we calculated general expenses as 10 percent of the COM. Where the actual profits were less than the statutory minimum of 8 percent of the COM plus general expenses, we calculated profit as 8 percent of the sum of COM plus general expenses. Based on our verification of Dillinger's cost response, we adjusted Dillinger's reported COP and CV to reflect certain adjustments to the cost of manufacturing, general and administrative expenses, indirect selling expenses and the calculation of profit.

In accordance with section 773 of the Tariff Act, for those U.S. models for which we were able to find a home market such or similar match that had sufficient above-cost sales, we calculated FMV based on the packed, F.O.B., ex-factory, or delivered prices to unrelated purchasers in the home market. We made adjustments, where applicable, for post-sale inland freight, and for home market direct expenses, such as certain rebates tied to specific sales, credit and discounts. In addition, we adjusted FMV for differences in physical characteristics, U.S. direct selling expenses, and the German value-added tax. Also, after deducting home market packing, we added packing expenses incurred in Germany for U.S. sales to FMV. No adjustment was made for home market related party commissions because Dillinger did not demonstrate that these commissions were at arm's length, but we offset an addition to FMV for U.S. commissions with home market indirect selling expenses.

Due to discrepancies in Dillinger's reporting of certain customers and level of trade, we are not in a position to know which sales reported as end-user sales were in fact end-user sales and which were sales to service centers/distributors. The only known difference in terms of sale to service centers/distributors and end-users was that service centers/distributors received a trader discount. Consequently, in matching home market sales to sales to U.S. end-users, we adjusted FMV to account for this discount (see Analysis Memorandum to the File, May 25, 1995).

Preliminary Results of Review

As a result of our comparison of USP to FMV we preliminarily determine that the following margin exists for the period February 4, 1993, through July 31, 1994:

Manufacturer	Margin
Dillinger	2.02%

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of these administrative reviews including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between the USP and FMV may vary from the percentages stated above.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise

entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act. A cash deposit of estimated antidumping duties shall be required on shipments of certain cut-to-length carbon steel plate from Germany as follows: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 36.00 percent. This is the ''all others'' rate from the LTFV investigation. See Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon Steel Plate from Germany, 58 FR 37136 (July 9, 1993).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 6, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–17227 Filed 7–12–95; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not to Revoke Antidumping Duty Orders and Findings Nor to Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Determination not to revoke antidumping duty orders and findings nor to terminate suspended investigations.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations, on April 28, 1995, we published in the **Federal Register** a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

Antidumping Proceeding

A–357–802
Argentina
Rectangular Carbon Steel Tubing
Objection Date: May 26, 1995
Objector: Hannibal Industries, Inc.
Contact: Sally Hastings at (202) 482–4366

A–351–503
Brazil
Iron Construction Castings
Objection Date: May 9, 1995
Objector: East Jordan Iron Works, Inc.
Contact: Hermes Pinilla at (202) 482–3477

A–588–066
Japan
Impression Fabric
Objection Date: May 30, 1995
Objector: Bomont Industries
Contact: Joe Fargo at (202) 482–5345

A–580–507
South Korea
Malleable Cast Iron Pipe Fittings, Other than Grooved
Objection Date: May 19, 1995
Objector: Grinnell Corporation, Ward Manufacturing, Inc., and Stockham Valves & Fittings Co., Inc.
Contact: Thomas Schauer at (202) 482–4852

A–583–507
Taiwan
Malleable Cast Iron Pipe Fittings, Other Than Grooved
Objection Date: May 19, 1995
Objector: Grinnell Corporation, Ward Manufacturing Inc., Stockham Valves & Fittings Co., Inc.
Contact: Wendy J. Frankel at (202) 482–0367

Dated: June 30, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–17231 Filed 7–12–95; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title: TRICARE Enrollment Application Form.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register**.

Number of Respondents: 300,000.

Responses Per Respondent: 1.

Annual Responses: 300,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 75,000.

Needs and Uses: The collection instrument serves as an application form for enrollment in the TRICARE Health Care Delivery Program established in accordance with 10 USC

1099. The information collected hereby, provides the private Third Party Administrator, contracted to provide administrative support services, with necessary data to determine beneficiary eligibility, other health insurance liability, premium payment, and to identify selection of health care option.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Shannah Koss.

Written comments and recommendations on the proposed information collection should be sent to Ms. Koss at the Office of Management and Budget, Desk Officer for DoD, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 7, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–17114 Filed 7–12–95; 8:45 am]

BILLING CODE 5000–04–P

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title: DoD FAR Supplement, Subpart 223.570, Drug-Free Work Force, and the Clause at 252.223–7004.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register**.

Number of Respondents: 12,000.

Responses Per Respondent: 1.

Annual Responses: 12,000.

Average Burden Per Response: 80 hours.

Number of Recordkeepers: 19,510.

Average Burden Per Recordkeeper: 48 hours.

Annual Burden Hours (Including Recordkeeping): 1,896,480.

Needs and Uses: DoD FAR Supplement, Subpart 223.570–4 requires the maintenance of appropriate records attendant to a program for achieving a drug-free work force. The program includes random drug testing of contractor employees working in sensitive positions, or appropriate alternatives to achieve the objectives of the drug-free work force clause at 252.223–7004.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 7, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–17115 Filed 7–12–95; 8:45 am]

BILLING CODE 5000–04–P

Department of the Air Force

Reuse and Disposal Supplemental Record and Decision for Lowry Air Force Base (AFB), Colorado

The Supplemental ROD for Lowry AFB modifies some decisions made in the original Lowry AFB ROD signed on August 1, 1994. These decisions are: (1) Change the recoupment provision (Condition f. on page 16 of the ROD) to allow for an up-front price settlement. (2) change parcel descriptions (3) change the decision on roadways and the water and sewer system. The Lowry AFB ROD was signed by the Assistant Secretary Rodney A. Coleman on August 1, 1994. Several disposal methods and parcels were involved in the ROD, including the Public Benefit Conveyances to the Department of Education, Department of Interior, Department of Health and Human Services (HHS), and an Economic Development Conveyance (EDC). In addition, the Air Force retained certain areas for the Defense Finance Accounting Service and Headquarters Air Force Space Command.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–17170 Filed 7–12–95; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

ARMS Initiative Implementation

AGENCY: Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF). The PPTF is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national industrial emergency. The first day's meeting will be an informal meeting where working groups can meet to discuss progress and PPTF members can confer on the future of the ARMS Program. The second day will be formal presentation of the status of open actions and working groups and a deliberation on the continued oversight and management of the ARMS Program. Both days are open to the public.

DATES OF MEETING: August 1–2, 1995.

PLACE OF MEETING: Blackhawk Hotel, 200 East Third Street, Davenport, IA 52801.

TIME OF MEETING: 12:00 PM–5:00 PM August 1, 1995 and 8:00 AM–4:00 PM August 2, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Auger, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, Virginia 22333; Phone (703) 274–9838.

SUPPLEMENTARY INFORMATION: Reservations should be made directly with the Blackhawk Hotel; telephone (319) 328–6000. Please be sure to mention that you will be attending the ARMS PPTF meeting to assure occupancy in the block of rooms set aside for this meeting. You should confirm your reservation prior to 20 July 1995. Request you contact Debra Yeager in the ARMS Team Office at Rock Island Arsenal; telephone (309) 782–4040, if you will be attending the meeting so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–17178 Filed 7–12–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act

(Pub.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 28 July 1995.

Time of Meeting: 0900–1530.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's (ASB) 1994 Summer Study on ''Technical Architecture Command, Control, Communications and Computers (C4'') Systems.'' Assorted briefings to the Future Army Radio Study Group will be conducted. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically paragraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary information to be discussed is so inextricably intertwined so as to preclude opening any portion of this meeting. The ASB Administrative Officer may be contacted for further information at (703) 695–0781.

Karen L. Blystone,

Sgt., U.S. Army.

[FR Doc. 95–17172 Filed 7–12–95; 8:45 am]

BILLING CODE 3710–08–M

MTMC's Requirements Document Concerning the Department of Defense (DOD) Personal Property Program

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: MTMC is engaged in re-engineering the existing DOD Personal Property Program in an effort to simplify the process, control program costs, and ensure quality of service. The re-engineering effort will adopt, to the fullest extent possible, proven commercial business practices and relieve carriers of DOD unique terms and conditions. The objective of this re-engineering effort is to enhance the quality of life for our service members and their families. As a result of this on going effort, MTMC has published a draft requirements document that provides details to industry concerning the anticipated requirements to participate in the movement of personal property for DOD. The initial draft of the requirements documents is provided with the intent to give industry the opportunity to comment on the feasibility of the proposal. MTMC requests that industry provide their input, suggestions, and constructive criticism concerning the draft requirement document. Additionally, MTMC intends to hold regional meetings with any interested carriers in August 1995 at various locations throughout the United States. More information on dates and places will be forthcoming.

DATES: Comments must be received by 20 September 1995.

ADDRESSES: Mail comments to Headquarters, Military Traffic Management Command, ATTN: MTOP–Q, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Joe DeLucia, MTOP–QE, (703) 681–6753.

SUPPLEMENTARY INFORMATION: The draft of the requirements document can be obtained by accessing MTMC's re-engineering update from the EasyLink Bulletin Board. To subscribe to AT&T EasyLink services carriers may contact AT&T EasyLink representative Lynn Phelps at 1–800–346–1557. Procedures to access the bulletin board system are as follows:

MTMC BBS Access

To access the MTMC BBS a communication software is required. The software could be EasyLink's Office Access, Procomm Plus, or some other type of off the shelf communication software. Also required is an account on the EasyLink network.

Office Access Software

- At the Main Menu type *C* for the On-line Communication Menu
- At the On-line Communication Menu type *F* for FYI. The software will dial the network and exit into FYI.
- The network will ask for CATEGORY NAME, type *MTMC*. This will place you in the MTMC BBS.
- To maneuver within the BBS to ADCSOPS for Quality.

a. From the main menu TYPE *2* for the ADCSOPS for Quality.

b. TYPE *1* for the Re-Engineered Personal Property Program.

c. TYPE *1* for Contacts.

d. TYPE *2* for Information.

As information scrolls across the screen, the information is automatically downloaded to the hard drive on your computer.

- Press *END* key to disconnect from EasyLink.
- Press *ESC* key and return to the Main Menu.
- Type *I* to access the Inbound Journal.
- High light the message and Press *ENTER* to view the BBS categories that were scanned.

Procomm Plus Software

- At the Dialing Directory press *R* to Revise Entry. Type in the entry name.
- The remaining setup entries are as follows:
- Number=*1–800–325–4112* or *1–800–445–7523*
- BAUD=*2400*
- PARITY=*Even*
- DATA BITS=*7*
- STOP BITS=*1*
- DUPLEX=*HALF*
- SCRIPT=BLANK
- PROTOCOL=*ASCII*
- TERMINAL=*ANSI*
- Press *ENTER* to dial the network.
- At the EASYLINK ID prompt type your *USERID AND PASSWORD*
- At the PTS prompt type *EXIT*. This will exit the EasyLink network and provide an EasyLink Service Menu.
- Press *2* to select FYI.
- Hold down the *ALT* key and press *F1* and type a log name. This will open the log and allow the capture of the BBS data as it is scanned.
- The network will ask for CATEGORY NAME, type *MTMC*. This will place you in the MTMC BBS.
- To maneuver within the BBS to ADCSOPS for Quality.

a. From the main menu TYPE *2* for the ADCSOPS for Quality.

b. TYPE *1* for the Re-Engineered Personal Property Program

c. TYPE *1* for Contacts.

d. TYPE *2* for Information.

- The software will automatically capture the categories that are typed. After the category scan is completed, press *ALT* and the *H* keys to logoff.
- Hold down the *ALT* key and press *F1* to close the log.
- Hold down the *ALT* key and press *V*. Type the log name to view it. This will allow the captured BBS data to be viewed.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–17180 Filed 7–12–95; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Notice to Amend Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending thirteen systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 14, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth

below. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 29, 1995.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

AAFES 0207.02

SYSTEM NAME:

Customer Comments, Complaints, and Direct Line Files *(February 22, 1993, 58 FR 10004).*

CHANGES:

SYSTEM NAME:

Replace 'Complaints' with 'Inquiries'.

* * * * *

NOTIFICATION PROCEDURE:

Replace 'Personnel Division' with 'Public Affairs Division'.

RECORD ACCESS PROCEDURE:

Replace 'Personnel Division' with 'Public Affairs Division'.

* * * * *

AAFES 0207.02

SYSTEM NAME:

Customer Comments, Inquiries, and Direct Line Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

Headquarters, Army and Air Force Exchange Service-Europe, Pinder Barracks, Schwabacherster 20 8502 Zirndorf;

Exchange Regions and Area Exchanges at posts, bases, and satellites world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of the Army and Air Force Exchange Service who make inquiries, complaints, or comments on its operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer's name, address and telephone number, information pertaining to the subject of inquiry, complaint, or comment and response thereto; customer opinion survey data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012.

PURPOSE(S):

To aid the Exchange management in determining needs of customers and action required to settle customer complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, stored in metal cabinets.

RETRIEVABILITY:

By customer's name.

SAFEGUARDS:

Records are accessible only by designated employees having official need therefor. Buildings housing records are protected by security guards.

RETENTION AND DISPOSAL:

Records are destroyed by shredding after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Public Affairs Division, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, current address and telephone number, case number that appeared on correspondence received from AAFES, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Public Affairs Division, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, current address and telephone number, case number that appeared on correspondence received from AAFES, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0404.01

SYSTEM NAME:

Incentive Awards Case Files *(February 22, 1993, 58 FR 10008).*

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All U.S. dollar-paid employees of the Army and Air Force Exchange Service who are recipients of awards.'

* * * * *

AAFES 0404.01

SYSTEM NAME:

Incentive Awards Case Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

HQ Army and Air Force Exchange Service-Europe, Pinder Barracks, Schwabacherster 20 8502 Zirndorf.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All U.S. dollar-paid employees of the Army and Air Force Exchange Service who are recipients of awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, grade/step, position title, award for which nominated and justification therefor, accomplishments, requirements of position held, organization in which employed, and similar relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012.

PURPOSE(S):

To consider and select employees for incentive awards and other honors and to publicize those granted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the

DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to public and private organizations, including news media, which grant or publicize employee awards or honors.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in filing cabinets.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are accessible only to designated individuals having official need therefor.

RETENTION AND DISPOSAL:

Records are retained for 2 years, following which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: PE, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number, current address and telephone number, and sufficient details to permit locating the record.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: PE, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number, current address and telephone number, and sufficient details to permit locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the nominating official; approving authority; individual's official personnel file.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0405.05

SYSTEM NAME:

Confidential Statement of Employment and Financial Interests *(February 22, 1993, 58 FR 10010).*

CHANGES:

Replace system identifier with AAFES 0607.01.

SYSTEM NAME:

Delete entry and replace with 'Confidential Financial Disclosure Report'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Each officer of a uniformed service assigned to AAFES whose pay grade is less than O–7 and each employee whose position is classified at Grade 15 (NF–5/Tier 1) or below and whose basic duties and responsibilities require the employee or officer to participate personally and substantially in a way that the final decision or action will have a direct and substantial economic effect on the interests of any non-Federal entity or the agency concludes in accordance with Federal regulation that the duties and responsibilities of the employee's position require the employee to file such a report to avoid involvement in a real or apparent conflict of interest.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Replace 'DD Form 1555, 'Confidential Statement of Employment and Financial Interest' with 'Standard Form 450, 'Confidential Financial Disclosure Report'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Replace 'E.O. 11222' with 'E.O. 12674, as amended by E.O. 12731.'

PURPOSE(S):

Replace 'These records are maintained to meet requirements of E.O. 11222 on the filing of employment and financial interest statements.' with 'These records are maintained to meet requirements of E.O. 12674, as amended by E.O. 12731 (5 CFR 2634.901, Subpart I), on the policies of Confidential Financial Disclosure Reporting.' Change 'Executive Order and title 18' to 'Executive Orders, Federal regulations, and Title 18'. Replace 'and' with 'or other' between 'employment and financial interests'.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Replace 'E.O. 11222, Part IV' with 'E.O. 12674 as amended by E.O. 12731'. Delete Subparagraph 'e'. Change subparagraph 'f' to 'e' and add to end of that subparagraph ', in which the filer is directly involved.'

* * * * *

RETENTION AND DISPOSAL:

Replace 'DD Form 1555' with 'Standard Form 450'. Delete 'records are then maintained 2 years and destroyed by shredding' after 'required;' and replace semicolon with a period. Add 'Destroy by shredding six years after the individual has left the position, except that documents needed in an on-going investigation will be retained until no longer needed in the investigation.'

* * * * *

AAFES 0607.01

SYSTEM NAME:

Confidential Financial Disclosure Report.

SYSTEM LOCATION:

Office of the General Counsel at Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202; HQ Army and Air Force Exchange Service-Europe, Pinder Barracks, Schwabacherster 20 8502 Zirndorf.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each officer of a uniformed service assigned to AAFES whose pay grade is less than O–7 and each employee whose position is classified at Grade 15 (NF–5/Tier 1) or below and whose basic duties and responsibilities require the employee or officer to participate personally and substantially in a way that the final decision or action will have a direct and substantial economic effect on the interests of any non-Federal entity or the agency concludes in accordance with Federal regulation that the duties and responsibilities of the employee's position require the employee to file such a report to avoid involvement in a real or apparent conflict of interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Form 450, 'Confidential Financial Disclosure Report,' and endorsements or documents relevant to information on this form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12674 as amended by E.O. 12731.

PURPOSE(S):

These records are maintained to meet requirements of E.O. 12674, as amended by E.O. 12731 (5 CFR 2634.901, Subpart I), on the policies of Confidential Financial Disclosure Reporting. Such statements are required to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, Federal regulations, and Title 18 of the U.S.C., and to determine if a conflict of interest exists between the employment of individuals by the Federal Government and their personal employment or other financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

These statements and amended statements required by or pursuant to E.O. 12674, as amended by E.O. 12731, are to be held in confidence and no information shall be disclosed except:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is party to a judicial proceeding or in order to comply with the issuance of a subpoena.

c. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

d. By the National Archives and Records Administration, General Services Administration, in record management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding, in which the filer is directly involved.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked file cabinets.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is accessible only to designated authorized persons who are properly screened, cleared and trained, having official need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Retained until individual no longer occupies a position for which Standard Form 450 is required. Destroyed by shredding six years after the individual has left the position, except that documents needed in an on-going investigation will be retained until no longer needed in the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, P.O. Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the General Counsel at the Army and Air Force Exchange Service location where the reports were filed.

Individuals should provide their full name, period covered by the report filed, locations(s) of employment, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the General Counsel at the Army and Air Force Exchange Service location where the reports were filed.

Individuals should provide their full name, period covered by the report filed, locations(s) of employment, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0406.12

SYSTEM NAME:

Employee Career Development Plan File *(February 22, 1993, 58 FR 10011).*

CHANGES:

Replace system identifier with 'AAFES 0408.17'.

SYSTEM NAME:

Change entry to read 'HPP Employee Upward Mobility Program Files'.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Name, Social Security Number, current job title, grade, job location, primary career field desired, training courses required, and dates training courses completed.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained until: (a) The associate is promoted into management, at which time the records are incorporated into the person's Official Personnel Folder; (b) the associate severs his/her employment with the Army and Air Force Exchange Service, at which time they are destroyed; or (c) if associate is reinstated at another AAFES location, record is forwarded to the gaining personnel office.'

* * * * *

AAFES 0408.17

SYSTEM NAME:

HPP Employee Upward Mobility Program Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, P.O. Box 660202, Dallas, TX 75266–0202;

HQ Army and Air Force Exchange Service-Europe, Pinder Barracks, Schwabacherster 20 8502 Zirndorf; and

Regional offices; area; base and post exchanges world-wide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Army and Air Force Exchange Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, current job title, grade, job location, primary career field desired, training courses required, and dates training courses completed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012; and E.O. 9397.

PURPOSE(S):

To assist the servicing personnel office in identifying and referring qualified employees for vacant positions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked file cabinets.

RETRIEVABILITY:

By employee's surname.

SAFEGUARDS:

Information is accessible only to designated individuals having an official need therefor in the performance of assigned duties.

RETENTION AND DISPOSAL:

Records are retained until (a) the associate is promoted into management, at which time the records are incorporated into the person's Official Personnel Folder; (b) the associate severs his/her employment with the Army and Air Force Exchange Service, at which time they are destroyed; or (c) if associate is reinstated at another AAFES location, record is forwarded to the gaining personnel office.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Senior Vice President, People Resources Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number, job location, and duty phone.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Senior Vice President, People Resources Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number, job location, and duty phone.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0408.14

SYSTEM NAME:

Tuition Assistance Case Files *(February 22, 1993, 58 FR 10012).*

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add to the end 'for degree programs.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add at end '; and E.O. 9397.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'By employee's Social Security Number.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are destroyed 3 years following individual's completion of degree program/courses.'

* * * * *

AAFES 0408.14

SYSTEM NAME:

Tuition Assistance Case Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Army and Air Force Exchange Service who apply for tuition assistance for degree programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application, academic transcripts, curricula, grade reports, request for disbursement, agency approval/disapproval, similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012; and E.O. 9397.

PURPOSE(S):

To maintain information on participants in the tuition assistance program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked cabinets.

RETRIEVABILITY:

By employee's Social Security Number.

SAFEGUARDS:

Information is accessed only by designated individuals having need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Records are destroyed 3 years following individual's completion of degree program/courses.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Senior Vice President, People Resources Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide his/her full name, Social Security Number, details concerning application for tuition assistance, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained

in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Senior Vice President, People Resources Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide his/her full name, Social Security Number, details concerning application for tuition assistance, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0410.01

SYSTEM NAME:

Employee Travel Files *(February 22, 1993, 58 FR 10013).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Army and Air force Exchange Service, PO Box 660202, Dallas, TX 75266–0202; Commander, AAFES Europe, Unit 24580, APO AE 09245; Commander, AAFES Pacific Rim Region, Unit 35163, APO AP 96378–163; base on post exchange within the AAFES System. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

* * * * *

AAFES 0410.01

SYSTEM NAME:

Employee Travel Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

Commander, AAFES Europe, Unit 24580, APO AE 09245;

Commander, AAFES Pacific Rim Region, Unit 35163, APO AP 96378–163; and

Base on post exchange within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Army and Air Force Exchange Service (AAFES) authorized to perform official travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to travel of persons on official Government business, and/or their dependents, including but not limited to travel assignment orders, authorized leave en route, availability of quarters and/or shipment of household goods and personal effects, application for passport/visas; security clearance; travel expense vouchers; and similar related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012; E.O. 9397.

PURPOSE(S):

To process official travel requests for military and civilian employees of the Army and Air Force Exchange Service; to determine eligibility of individual's dependents to travel; to obtain necessary clearance where foreign travel is involved, including assisting individual in applying for passports and visas and counseling where proposed travel involves visiting/transiting communist countries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to attache' or law enforcement authorities of foreign countries.

To the U.S. Department of Justice or Department of Defense legal/intelligence/investigative agencies for security, investigative, intelligence, and/or counterintelligence operations.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked filing cabinets.

RETRIEVABILITY:

By employee's surname.

SAFEGUARDS:

Information is accessed only by designated individuals having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed after 2 years by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Administrative Services Division, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number, current address and telephone number, details of travel authorization/clearance documents sought, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Administrative Services Division, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number, current address and telephone number, details of travel authorization/clearance documents sought, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, official travel orders, travel expense vouchers, receipts and similar relevant documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0505.02

SYSTEM NAME:

Biographical Files *(February 22, 1993, 58 FR 10014).*

CHANGES:

Replace system identifier with 'AAFES 0502.02'.

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Insert 'Key' at the beginning of the paragraph.

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AAFES 0502.02

SYSTEM NAME:

Biographical Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202; HQ Army and Air Force Exchange Service-Europe, Pinder Barracks, Schwabacherster 20 8502 Zirndorf.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Key military and civilian employees of the Army and Air Force Exchange Service world-wide.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, position title and organizational location, home address, date and place of birth, marital status including names of spouse and children, educational background, military status, awards and decorations, community and civic interest data, photograph, and similar relevant information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012.

PURPOSE(S):

To prepare feature articles for hometown newspapers, trade media, community interests, and similar public service groups.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to public and private organizations including news media.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are accessed only by designated individuals having official need therefor, in buildings protected by security guards or military police.

RETENTION AND DISPOSAL:

Records are retained for 1 year following termination of individual's assignment or employment; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Public Affairs Division, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, current address and telephone number, details surrounding the event or incident, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Public Affairs Division, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, current address and telephone number, details surrounding the event or incident, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; official AAFES records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0702.22

SYSTEM NAME:

Check-Cashing Privilege Files *(February 22, 1993, 58 FR 10016).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378-5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3012, 3013, 8012, and 8013; and E.O. 9397.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained by the Office of the General Counsel until indebtedness has been satisfied, determined to be uncollectible, or additional administrative action is required. Upon completion, records are transferred to the Accounts Receivable Division (FA-O/R) and maintained with appropriate check cashing privilege records.'

* * * * *

AAFES 0702.22

SYSTEM NAME:

Check-Cashing Privilege Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378-5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers of the Army and Air Force Exchange Service: military, dependents, retirees, and Exchange employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer's name, Social Security Number, category of customer (i.e., dependent, retiree, active duty member), amounts of checks not paid by bank, collection efforts, and relevant documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, 8012, and 8013; and E.O. 9397.

PURPOSE(S):

To determine customer's eligibility to cash checks.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In overseas areas, information is disclosed to military banking facilities. These facilities are branches of U.S. based financial institutions which are under contract to the Department of Defense to provide banking services to U.S. military and affiliated civilian personnel overseas. Any financial losses sustained by these activities in support of the Department of Defense program are underwritten by the Department of Defense using appropriated funds. The financial institutions use the check-cashing information only to determine whether to cash checks or similar negotiable instruments for individuals - not to award or deny other banking privileges.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)).

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records; computer tapes, discs, and printouts.

RETRIEVABILITY:

By customer name and Social Security Number.

SAFEGUARDS:

All information is stored in locked rooms within secured buildings and is accessed only by designated personnel having official need therefor, primarily by individuals authorized to cash checks.

RETENTION AND DISPOSAL:

Records are retained by the Office of the General Counsel until indebtedness has been satisfied, determined to be uncollectible, or additional administrative action is required. Upon completion, records are transferred to the Accounts Receivable Division (FA-O/R) and maintained with appropriate check cashing privilege records.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the local Exchange where check was cashed (or refused) or to the Commander, Army and Air Force Exchange Service, ATTN: FA, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number or other acceptable identifying information that will facilitate locating the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the local Exchange where check was cashed (or refused) or to the Commander, Army and Air Force Exchange Service, ATTN: FA, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide full name, Social Security Number or other acceptable identifying information that will facilitate locating the records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; his/her checks; financial institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0702.23

SYSTEM NAME:

Dishonored Check Files *(February 22, 1993, 58 FR 10017).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry ', and 8013.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained by the Office of the General Counsel until indebtedness has been satisfied, determined to be uncollectible, or additional administrative action is required. Upon completion, records are transferred to the Accounts Receivable Division (FA-O/R) and maintained with appropriate check cashing privilege records.'

* * * * *

AAFES 0702.23

SYSTEM NAME:

Dishonored Check Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have negotiated dishonored checks at Army and Air Force Exchange Service (AAFES) facilities and whose check cashing privilege is under review by the General Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, indebtedness, collection efforts, and relevant documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, 8012, and 8013.

PURPOSE(S):

To collect dishonored check indebtedness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to civil or criminal law enforcement agencies for law enforcement purposes.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By surname of individual responsible for dishonored check.

SAFEGUARDS:

Records are maintained in buildings having security guard and are accessed only by personnel having official need therefor who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are retained by the Office of the General Counsel until indebtedness has been satisfied, determined to be uncollectible, or additional administrative action is required. Upon completion, records are transferred to the Accounts Receivable Division (FA-O/R) and maintained with appropriate check cashing privilege records

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: General Counsel, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, Social Security Number, current address and telephone number, latest correspondence from AAFES if available, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: General Counsel, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, Social Security Number, current address and telephone number, latest correspondence from AAFES if available, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, his/her employer, law enforcement investigative agencies, banking facilities, consumer reporting agencies, and sources that furnish information regarding individual's credit.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0702.34

SYSTEM NAME:

Accounts Receivable Files *(February 22, 1993, 58 FR 10017).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Army and Air

AAFES-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

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PURPOSE(S):

Delete 'dishonored check.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the fourth paragraph, replace 'the Army has exhausted its internal collection efforts' with 'internal collection efforts have been exhausted'.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Delete 'dishonored check.'

* * * * *

SAFEGUARDS:

Delete 'AAFES/CM-G' and replace with 'AAFES-FA-O/R'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained in current files until close of fiscal year in which receivable is cleared. At year end, files are stored for 10 years and subsequently destroyed by shredding.'

* * * * *

AAFES 0702.34

SYSTEM NAME:

Accounts Receivable Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army and Air Force Exchange Service (AAFES) customers (military, retirees, civilian, and civilian dependents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files relating to debts owed by individuals, including dishonored checks, deferred payment plans, home layaway, salary/travel advances, pecuniary liability claims and credit cards. These files include all correspondence to the debtor/his or her commander, notices from banks concerning indebtedness, originals or copies of returned checks, envelopes showing attempts to contact the debtor, payment documentation, pay adjustment authorizations, deferred payment plan applications, charges and statements or accounts, and home layaway cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012; Federal Claims Collection Act of 1966, 31 U.S.C. 3711; Debt Collection Act of 1982 (Pub. L. 97–365); 31 U.S.C. 5512 through 5514; and E.O. 9397.

PURPOSE(S):

To process, monitor, and post audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

To collect indebtedness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Department of Justice/U.S. Attorneys for legal action and/or final disposition of the debt claim.

To the Internal Revenue Service to obtain locator status for delinquent accounts receivables (controls exist to preclude redisclosure of solicited IRS address data; and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age).

To private collection agencies for collection action when the internal collection efforts have been exhausted.

To civil or criminal law enforcement agencies for law enforcement purposes.

The 'Blanket Routine Uses' that appear at the beginning of the Army's compilation of systems of records notices apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) to collect indebtedness.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in individual file folders.

RETRIEVABILITY:

Retrieved by customer's surname or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only by authorized personnel within AAFES-FA-O/R.

RETENTION AND DISPOSAL:

Records are retained in current files until close of fiscal year in which receivable is cleared. At year end, files are stored for 10 years and subsequently destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Chief, Accounts Receivable Division, Comptroller Division, PO Box 660202, Dallas, TX 75266–0202.

Individuals should provide full name, Social Security Number, or other acceptable identifying information that will facilitate locating the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Chief, Accounts Receivable Division, Comptroller Division, PO Box 660202, Dallas, TX 75266–0202.

Individuals should provide full name, Social Security Number, or other acceptable identifying information that will facilitate locating the records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are published in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the customer and from correspondence between AAFES and Vendors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0702.43

SYSTEM NAME:

Travel Advance Files *(February 22, 1993, 58 FR 10018).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3012, 3013, 8012 and E.O. 9397. '

* * * * *

RETRIEVABILITY:

Delete 'surname' and replace with 'Social Security Number.'

* * * * *

AAFES 0702.43

SYSTEM NAME:

Travel Advance Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202;

AAFES-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

AAFES Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees required to perform official travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, organization to which assigned, details of official travel, amount advanced, and similar relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, 8012 and E.O. 9397.

PURPOSE(S):

To monitor travel advances against individual's authorized official travel and to ensure settlement of indebtedness to the Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in metal filing cabinets.

RETRIEVABILITY:

By employee's Social Security Number.

SAFEGUARDS:

Records are accessed only by designated employees having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed 1 year following settlement of an individual's travel advance account.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Payroll and Employee Benefits Division (FA-O/P), PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, sufficient details concerning records sought, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Payroll and Employee Benefits Division (FA-O/P), PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, sufficient details concerning records sought, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, records of the AAFES office issuing travel advance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 0903.06

SYSTEM NAME:

Personnel Management Information System *(February 22, 1993, 58 FR 10020).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Centralized at Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

Segments of the system exist at servicing civilian personnel offices at Commander, AAFES Pacific Rim Region, Unit 35163, APO AP 96378-5163;

Commander, AAFES Europe Region, Unit 24580, APO AE 09245; and

U.S. Operations Offices, and post/base exchanges worldwide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3012, 3013, 8012 and E.O. 9397.'

* * * * *

AAFES 0903.06

SYSTEM NAME:

Personnel Management Information System.

SYSTEM LOCATION:

Centralized at Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

Segments of the system exist at servicing civilian personnel offices at Commander, AAFES Pacific Rim Region, Unit 35163, APO AP 96378-5163;

Commander, AAFES Europe Region, Unit 24580, APO AE 09245; and

U.S. Operations Offices, and post/base exchanges worldwide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Army and Air Force Exchange Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, Exchange location, home address; date of birth; date hired, leave accrual data, retirement participation data, service award data, citizenship, marital status, sex, security clearance, military status, sponsor affiliation where employee is a dependent of a U.S. Government/military member, job code and title, employment category, pay plan, wage schedule, base hourly rate, scheduled work week, Federal and State tax exemptions, type of insurance coverage, authorized deductions, life insurance coverage, physical examination documents, education and experience, licenses, career plans, Personnel Evaluation Reports, training course data, and similar relevant information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, 8012 and E.O. 9397.

PURPOSE(S):

To produce reports and statistical analyses of the civilian work force strength trends and composition in support of established manpower and budgetary programs and procedures; verify employment; provide data in support of Equal Employment Opportunity Program requirements; provide locator and emergency notification data; respond to union requests; identify training requirements; provide salary data for current and projected fiscal guidance, personnel data for current and projected staffing requirements; provide suspense system for within grade increases, length of service awards, performance ratings, pay adjustments and tenure groups; provide data for retirement processing, individual personnel actions; analyze leave usage; investigate complaints, grievances and appeals; respond to requests from courts and regulatory bodies; provide incentive awards information; provide qualified candidates to fill position vacancies; counsel employees on career development; plan dependent services in overseas areas; determine validity of individual claims related to pay adjustments; and for other managerial

and statistical studies, records, and reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes/discs; printouts.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

Disc and tape files reside in restricted areas accessible only to authorized personnel who are properly screened, cleared, and trained. Manual records and computer printouts containing personal identifiers are maintained in locked file cabinets and are available only to individuals having official need therefor.

RETENTION AND DISPOSAL:

Disc files are retained for 18 months after employee separates and are destroyed with the exception of employees terminated under disciplinary action (ineligible for rehire), retired employees and all employees under the Universal Annual Salary Plan whose file remains a permanent record. Back-up tapes are retained for 90 days. Computer printouts are maintained as follows: System edit reports are destroyed upon verification that errors have been corrected; printouts produced for managerial reports are maintained for periods varying from 2 to 10 years; source documents and computer printouts which are included as part of the employee's Official Personnel Folder are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Senior Vice President, People Resources Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individuals should provide full name, Social Security Number, current address and telephone number and, if terminated, include date of birth, date of separation, and last employing location.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Senior Vice President, People Resources Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individuals should provide full name, Social Security Number, current address and telephone number and, if terminated, include date of birth, date of separation, and last employing location.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the employee, his/her supervisor, AAFES records and reports, Official Personnel Folder.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

AAFES 1203.03

SYSTEM NAME:

Appointment of Contracting Officers *(February 22, 1993, 58 FR 10021).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry replace with 'Records are maintained in the system until two years after the end of the fiscal year in which the individual's appointment as a contracting officer is terminated. At that time, the records are destroyed.'

* * * * *

AAFES 1203.03

SYSTEM NAME:

Appointment of Contracting Officers.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military or civilian personnel assigned to the Army and Air Force Exchange Service (AAFES) are appointed as contracting officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, job title and grade, qualifications, training and experience, request for appointment as contracting officer, copy of Certificate of Appointment, and other correspondence and documents relating to individual's qualifications therefor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012, 3013, and 8012; and E.O. 9397.

PURPOSE(S):

To ascertain an individual's qualifications to be appointed as contracting officer; to determine if limitations on procurement authority are appropriate; to complete Certificate of Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is accessible only to designated persons having official need therefor in the performance of their duties. Records are maintained in building entrance which is limited to persons assigned to AAFES.

RETENTION AND DISPOSAL:

Records are maintained in the system until two years after the end of the fiscal year in which the individual's appointment as a contracting officer is

terminated. At that time, the records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, PO Box 660202, Dallas, TX 75266–0202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Procurement Support and Policy Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, and sufficient details to permit locating the pertinent records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Procurement Support and Policy Directorate, PO Box 660202, Dallas, TX 75266–0202.

Individual should provide their full name, and sufficient details to permit locating the pertinent records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, personnel records, former employers, educational institutions, AAFES records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–17111 Filed 07–12–95; 8:45 am]

BILLING CODE 5000–04–F

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Reallocation of Storage at Jennings Randolph Lake in Mineral County, West Virginia, and Garrett County, Maryland

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Baltimore District, U.S. Army Corps of Engineers, is investigating the feasibility of reallocating existing storage (flood control and/or water quality) to water supply storage at Jennings Randolph Lake. Jennings Randolph Lake is located on the North Branch Potomac River in Mineral County, West Virginia, Garrett County, Maryland. The intent of the reallocation is to meet identified regional water supply demands.

A feasibility study of the proposed action is being conducted under Section 301 of the Water Supply Act of 1958, Section 216 of the Rivers and Harbors and Flood Control Act of 1970, and Section 105 of the Water Resources Development Act of 1986. The feasibility study was initiated in December 1990. The study was undertaken as a result of the State of Maryland's 1985 consumptive use regulation, as well as identified need by the Washington area water supply utilities for additional storage for future municipal water supply needs. The purpose of the feasibility study is to determine the feasibility of reallocating storage at Jennings Randolph Lake to meet water supply needs and to evaluate the potential impacts on the authorized project purposes and environmental resources. The State of Maryland is the non-Federal sponsor for the feasibility phase of the reallocation study. A notice of intent was first published for the study in the June 6, 1991, **Federal Register**. However, in the spring of 1992, study activities were suspended due to concerns regarding technical issues. A detailed investigation of the issues and a reassessment of the remaining study tasks resolved the concerns, and study activities were resumed in February 1995.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Ms. Laura Seebeck, Project Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–PR, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–4958.

SUPPLEMENTARY INFORMATION: 1. Jennings Randolph Lake is located on the North Branch Potomac River, approximately 8 miles upstream of its confluence with the Savage River. It is situated on the border between Mineral County, West Virginia, and Garrett County, Maryland, about 230 miles upstream of Washington D.C. Construction of Jennings Randolph Lake was authorized by the Flood Control Act of 1962 (Public Law 87–874), under the name of Bloomington Lake, to provide water quality control in the North Branch Potomac River, industrial and municipal water supply for the Potomac River basin, flood control protection for the North Branch communities, and recreation associated with the lake and the surrounding facilities. The construction of the dam was initiated in 1971, completed in 1981, and is operated by the Corps of Engineers. In May 1987, Bloomington Lake was renamed Jennings Randolph Lake, in honor of the longtime West Virginia senator. The dam controls 263 square miles of drainage and is authorized to provide flood control, water supply, water quality control, and recreation. The reservoir storage is currently allocated to water supply (41,000 acre-feet), water quality control (51,000 acre-feet) and flood control (36,200 acre-feet). The present use of the Jennings Randolph water quality storage has produced significant improvements to the North Branch Potomac River downstream of the dam, particularly during low flow conditions; however, extensive lake drawdowns have resulted from water quality releases.

Jennings Randolph Lake extends 5.5 miles covering 952 acres at the full conservation pool of 1,466 feet, mean sea level. The 4,700 acres of project lands lie in a densely wooded, winding gorge in the Appalachian Highlands. A variety of recreational opportunities exist along the lake. The major attractions offered at Jennings Randolph Lake are a nature trail, sightseeing at two project overlooks, picnic facilities, campgrounds, fishing access, and a boat launch.

2. Increasing population, industrial development and economic growth in the Potomac River basin are causing additional demands on the basin's water and related land resources. In 1985, the State of Maryland enacted consumptive use legislation which regulates facilities that withdraw water from the Potomac River and its tributaries. During periods of low flow, the Maryland regulation mandates that consumptive users replace their consumptive loss or, alternatively, shut down their operation. Several water users are interested in the purchase of storage at Jennings Randolph Lake to meet their consumptive use requirements. The proposed action consists of reallocating some of the existing storage (flood control and/or water quality) to water supply storage.

3. During 1991 and 1992, baseline or existing conditions were identified for environmental and cultural resources, recreational facilities, social and economic conditions, hydrologic and hydraulic conditions, and slope stability within the study area. During the alternative analysis, concerns regarding the intake tower's capability to accommodate the proposed reallocation

were raised. In the spring of 1992, study activities ceased while a detailed review of the existing operations manual was conducted, which concluded that the existing intake tower was adequate for the reallocation.

4. The Jennings Randolph Reallocation Feasibility Study will investigate a range of alternatives including:

(a) No action.

(b) Reallocation of a portion of the present water quality storage to water supply. No increase in the present conservation lake elevation would occur. The maximum amount of storage to be considered for reallocation is 6,000 acre-feet.

(c) Reallocation of the present flood control storage to water supply. The present conservation pool elevation would be increased, and maintained at the new level throughout the year, as much as possible. Several levels of reallocation will be investigated ranging from a minimum of a 6-foot rise to a maximum of an 18-foot rise in the present conservation lake level. These rises would mean an additional 5,800 to 18,200 acre-feet of water supply storage, respectively.

(d) Reallocation of the present flood control storage to water supply by operating the lake on a seasonal pool basis. The lake would be gradually drawn down throughout autumn, maintained at an elevation of about 1,450 feet over the winter, and gradually brought back up during the spring for the summer season. Historically, lake levels at the project have followed a similar pattern to meet downstream water quality objectives.

The feasibility study will evaluate the beneficial and adverse impacts of the proposed reallocation alternatives including the following issues: additional water supply releases, lake drawdowns beyond the current operations, decreased flood control storage, decreased water quality storage, and the increased frequency of gas supersaturation.

5. The Baltimore District is preparing a draft environmental impact statement (DEIS) which will describe the impacts of the proposed action on the environmental, cultural, recreational, social and economic resources in the study area, as well as the existing level of flood protection. The overall public interest will also be addressed. If applicable, the DEIS will also apply guidelines issued by the Environmental Protection Agency, under authority of Section 404(b)(1) of the Clean Water Act of 1977 (Pub. L. 95–217).

6. A notice of study status will be distributed to interested private individuals and organizations, as well as Federal, state, and local agencies informing them of the study and our intent to prepare a DEIS, and requesting their comments. The Baltimore District invites potentially affected Federal, state, and local agencies, and other interested organizations and parties to participate in this study. Agencies that will be involved in the feasibility study and EIS process include, but are not limited to, the U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; U.S. Geological Survey; U.S. Natural Resources Conservation Service; U.S. National Park Service; West Virginia Department of Natural Resources; Maryland Department of Natural Resources; Maryland Department of the Environment; Maryland Historical Trust; West Virginia Department of Culture and History; Mineral County, West Virginia; Garrett County, Maryland; the Interstate Commission on the Potomac River Basin; the Tri-County Council for Western Maryland; and the Upper Potomac River Commission. Additional study bulletins, notices and workshops will be included as part of the public involvement program, as needed.

7. The DEIS is tentatively scheduled to be available for public review in December 1996.

Neal T. Wright,

LTC, Corps of Engineers, Acting Commander.

[FR Doc. 95–17179 Filed 7–12–95; 8:45 am]

BILLING CODE 3710–41–M

Corps of Engineers

Intent To Prepare a Draft Supplement (DSEIS) to the Final Environmental Impact Statement; Sacramento River Bank Protection Project, Lower American River, California

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The proposed action is the implementation of streambank protection along the lower American River where erosion threatens the integrity and reliability of Federal flood control levees which provide flood protection to the Greater Sacramento Metropolitan Area. The proposed action, developed cooperatively by a task force composed of government agencies and local interest organizations, comprises a near-term bank protection action and possible longer-term bank protection actions. Near-term actions include bank protection at five critical sites comprising 13,800 linear feet of streambank protection. Longer-term actions may be taken at any location along the lower American River where project flood control levees become threatened by bank erosion. The proposed action is being implemented by the Sacramento River Bank Protection Project, a continuing construction project authorized by the 1960 Flood Control Act.

FOR FURTHER INFORMATION CONTACT: Questions or comments regarding this DSEIS should be addressed to Mr. Matt Davis, Planning Division, Corps of Engineers, 1325 J Street, Sacramento, California, 95814–2922, ATTN: CESPK–PD–R, telephone (916) 557–6708. An issues-scoping meeting for this project will be held on July 11, 1995, as described below.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps of Engineers and non-Federal sponsors (The Reclamation Board, State of California, and the Sacramento Area Flood Control Agency) are proposing to implement streambank protection measures on the lower American River, California. The purpose of the proposed action to implement streambank protection measures is to ensure the reliability of the lower American River Federal levees, while preserving existing environmental values and other values that lead to the river's inclusion in the Federal and State Wild and Scenic Rivers systems and creation of the American River Parkway.

The proposed action is being implemented under the Sacramento River Bank Protection Project (SRBPP). The SRBPP is a continuing construction project of the Corps of Engineers authorized by the Flood Control Act of 1960. The purpose of the SRBPP is to protect the existing levees and flood control facilities of the Sacramento River Flood Control Project. The proposed action on lower American River is within the project area of SRBPP.

The area of the lower American River to be affected by the proposed action consists of the reach of the river bounded by Federal levees of the American and Sacramento River Flood Control Projects. This reach extends upstream from the confluence with the Sacramento River in the City of Sacramento about 11 miles (south bank) to 14 miles (north bank), through the American River Parkway of Sacramento County. This reach of the American River is a designated Recreational Zone

of a Wild and Scenic River under both the Federal and State Acts.

Since January 1994, the lower American River Task Force, comprised of flood-control agencies, resource-management agencies, local governments, and local interest organizations, has been developing the foundation for a locally preferred alternative for a flood control project along the lower American River. This task force is addressing five related areas: streambank protection measures, levee design and stabilization issues, infrastructure needs and alternative flows, a floodway management plan, and opportunities for parkway improvements. The environmental document noticed herein would address the task force's proposed streambank protection measures. The streambank protection action would protect the existing flood control levee system but not provide for a greater level of flood protection. Solutions to flood problems along the American and Sacramento Rivers in the greater Sacramento area are being addressed separately by the Corps of Engineers under the American River Watershed Project (DSEIS and Supplemental Information Report to be released for public review in summer of 1995).

The proposed action to be addressed in the DSEIS, developed by consensus among the task force participants, comprises a near-term bank protection action and possible longer-term actions. Near-term actions include bank protection at five critical sites comprising 13,800 linear feet of streambank. Bank protection construction at these five sites is proposed to begin in 1997. Longer-term actions may be taken at any location along the Federal levee system where levees become threatened by bank erosion. Although some potential sites have been identified, other eroding sites may develop during future floods. The document will identify sites most likely to need treatment, the process to be used to determine if treatments are needed, the expected approaches to treatment, and the process to be used to determine the actual treatments.

To shorten the time period between identification of treatment need and actual treatment in the future, as encouraged by the President's Council on Environmental Quality, the document will also provide a programmatic impact assessment of possible future bank protection throughout the lower American River project area. This assessment will focus on common, expected, and cumulative impacts of bank protection. Actual proposed actions in the future would be subjected to further, site-specific environmental review under this overall assessment, as provided for by NEPA. The selection of both sites and methods of protection will continue to involve collaboration with flood-control and resource agencies.

All bank protection actions will be followed by monitoring of installation stability and development of vegetation and habitat values. In addition to onsite mitigation, offsite mitigation may be incorporated into the proposed action. Advanced project mitigation will also be considered in the document.

2. Alternatives

Alternative bank protection measures for near-term and longer-term actions will be considered in the DSEIS. Streambank protection measures under consideration include both bank revetment and indirect measures to reduce erosion threats to the levees. Alternative designs retain as many environmental features of the proposed actions as possible, while modifying features potentially having adverse hydraulic effects. The bank protection design proposals are intended to provide a high level of flood safety and to retain and recreate onsite as much aquatic and riparian habitat value and visual quality as feasible. The preferred designs employ well-vegetated, visually irregular surfaces composed of soil and biotechnical materials overlying rock protection. Large woody material will be placed in embayments where hydraulic forces allow, and riparian vegetation will be established above the summer water level. The diverse physical structures are expected to result in a diversity of plant communities and habitat types. Construction methods will ensure minimum disturbance of vegetation on the remnant flood plains within the levees.

3. Scoping Process

''Scoping'' is the process of identifying the range of actions, alternatives, and impacts to be evaluated in an environmental document. The following activities will be used to assist the Corps in scoping the DSEIS:

a. Concurrent with publishing this notice of intent in the **Federal Register**, the notice of intent will be sent to public agencies, organizations, and individuals known to have an interest in the project. All interested parties are encouraged to respond to this notice and to provide scoping comments and a current address if they wish to be contacted about the DSEIS. Comments received from the notice will be used in determining the scope of the DSEIS.

b. Potential environmental impacts of the proposed action have been identified in the following areas: Aquatic, wetland, and riparian habitats; fish and wildlife populations; channel hydraulics, bank stability, and flood control safety; visual character, recreation opportunity and use, and recreation safety; construction traffic, air quality, and noise; construction water quality; and cultural resources. The environmental document will examine impacts in these topic areas and any other potentially significant effects identified in the scoping process. The ''no-action'' alternative, allowing bank erosion to proceed unimpeded, will provide the baseline for assessing impacts of the proposed action and the other alternatives.

c. After the draft environmental document is prepared, it will be circulated for a 45-day review period to all interested parties for review and comment. A public meeting, documented through a transcript, will be held to receive verbal and written comments. All written and verbal comments will be considered and responded to in the subsequent Final SEIS.

4. Scoping Meeting

The public is invited to assist the Corps of Engineers in scoping this DSEIS. To facilitate this involvement, the Corps will hold a public scoping meeting in Sacramento on July 11 at noon at the Sacramento Public Library, first floor, 828 I Street. A transcript of the meeting will be made. Individuals, organizations, and agencies are also encouraged to submit written scoping comments; these must be received by July 21, 1995.

5. Estimated Date of DSEIS

The DSEIS is scheduled to be made available to the public on February 5, 1996.

Dated: June 28, 1995.

John N. Reese,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 95–17175 Filed 7–13–95; 8:45 am]

BILLING CODE 3710–EZ–M

Defense Mapping Agency

Privacy Act of 1974; Notice To Delete and Amend Systems of Records

AGENCY: Defense Mapping Agency, DOD.

ACTION: Notice to delete and amend systems of records.

SUMMARY: The Defense Mapping Agency is deleting three and amending five

systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

In addition, DMA is updating all addresses in their notices to coincide with changes in the address directory provided below.

DATES: This proposed actions will be effective without further notice on August 14, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Ms. Helen Sharetts-Sullivan, General Counsel Information, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Sharetts-Sullivan at (703) 285–9315.

SUPPLEMENTARY INFORMATION: The Defense Mapping Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the entire notice, as amended. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 29, 1995.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

B0614–02

SYSTEM NAME:

Military Services Administrative Record Files *(February 22, 1993, 58 FR 10205).*

Reason: This system has been combined into B0614-01.

B0901–04

SYSTEM NAME:

Civilian Employee Health Clinic Record *(February 22, 1993, 58 FR 10206).*

Reason: These records are covered under the government-wide system of records notice OPM/GOVT-10.

B0401–02

SYSTEM NAME:

Statements of Employment and Financial Interest and Ethics Act Files *(February 22, 1993, 58 FR 10196).*

Reason: These records are covered under the government-wide system of records notice OGE/GOVT-2.

AMENDMENTS

In all the DMA notices, the following changes will be made without reprinting the notices.

DEFENSE MAPPING AGENCY OFFICIAL MAILING ADDRESSES

Replace 'Director, ATTN: GCI St A-7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137' with 'DMA Fairfax, ATTN: GCM St A-7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Replace 'DMA Aerospace Center, 3200 South Second Street, St. Louis, MO 63118–3399' with 'DMA St. Louis, 3200 South Second Street, St. Louis, MO 63118–3399'.

Replace 'DMA Hydrographic/Topographic Center, 4600 Sangamore Road, Bethesda, MD 20816–5003'; and 'DMA Combat Support Center, 6001 MacArthur Boulevard, Bethesda, MD 20816–5501'; and 'DMA Systems Center, 4600 Sangamore Road, Bethesda, MD 20816–5003' with 'DMA Bethesda, 4600 Sangamore Road, Bethesda, MD 20816–5003'.

Replace 'DMA Reston Center, 12310 Sunrise Valley Drive, Reston, VA 22091–3414' with 'DMA Reston, 12310 Sunrise Valley Drive, Reston, VA 22091–3414'.

Add 'Defense Mapping School, 5825 21st Street, Suite 106, Ft. Belvoir, VA 22060–5921'.

Delete the rest of the address directory.

B0401–03

SYSTEM NAME:

Legal Assistance Case Files *(February 22, 1993, 58 FR 10197).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the General Counsel, DMA Fairfax; Office of General Counsel, DMA Bethesda; Office of the General Counsel West, DMA St. Louis. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Military and civilian personnel assigned to DMA who request legal assistance'.

* * * * *

PURPOSE(S):

After military, insert 'and civilian'.

* * * * *

RETENTION AND DISPOSAL:

Delete first two sentences.

* * * * *

B0401–03

SYSTEM NAME:

Legal Assistance Case Files.

SYSTEM LOCATION:

Office of the General Counsel, DMA Fairfax; Office of the General Counsel, DMA Bethesda; Office of the General Counsel West, DMA St. Louis. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel assigned to DMA who request legal assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain legal opinions of the General Counsel Office regarding personal matters of an individual. Also copies of document prepared on behalf of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, Records Management by Federal Agencies.

PURPOSE(S):

To document legal matters and assistance provided to military and civilian personnel by Counsel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper record in file folders and/or floppy disk.

RETRIEVABILITY:

Filed alphabetically by last name of employee.

SAFEGUARDS:

Records are maintained in a secured area/locked file cabinets with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

The record is destroyed one year after completion of the case. Selected opinions and correspondence withdrawn for use as precedent may be held until no longer required for reference.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, ST A–7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the General Counsel, ST A–7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the General Counsel, ST A–7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, current address and telephone number, and Social Security Number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, such as, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Request from military personnel for legal opinion on a personal matter, opinions of counsel and documents prepared by counsel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

B0402–05

SYSTEM NAME:

Legal Claims File *(February 22, 1993, 58 FR 10197).*

* * * * *

SYSTEM LOCATION:

Delete first paragraph and replace with 'Primary location: Office of the General Counsel, DMA Fairfax; Office of the General Counsel, DMA Bethesda; Office of the General Counsel, DMA St. Louis. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.'

* * * * *

B0402–05

SYSTEM NAME:

Legal Claims File.

SYSTEM LOCATION:

Primary location: Office of the General Counsel, DMA Fairfax; Office of the General Counsel, DMA Bethesda; Office of the General Counsel, DMA St. Louis. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

Decentralized Segments - Washington National Records Center, GSA, 4205 Suitland Road, Suitland, MD 20409, Department of Army, Judge Advocate General, Pentagon, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DMA personnel having a claim against the Government for loss, damage, or destruction of personal property.

Any individual filing a tort claim against DMA for damages, loss or destruction of property, personal injury or death resulting from negligence or wrongful act, or omission of acts by DMA personnel and individuals against whom the Agency has legal claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's claims, related correspondence and processing papers, investigative reports, recommendations and opinions of the General Counsel's Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, Records Management by Federal Agencies and 28 U.S.C. 2671–2680, Federal Torts Claims Act.

PURPOSE(S):

To document claims against the Government by DMA personnel for damage, loss, or destruction of personal property incident to their service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper record in file folders and/or floppy disk.

RETRIEVABILITY:

Filed alphabetically by last name of employee or by case name.

SAFEGUARDS:

Records are maintained in a secured/locked file cabinets with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Disapproved claims and claims involving a minor are destroyed 10 years after final action on the case.

Approved claims are destroyed 5 years after final action on the case.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, ST A–7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the General Counsel, ST A–7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the General Counsel, ST A–7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, current address and telephone number, and Social Security

Number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, such as, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Related forms, correspondence, investigative reports and information gathered in anticipation of litigation, and opinions of Counsel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

B0614–01

SYSTEM NAME:

Official Records (Military) Files and Extracts *(February 22, 1993, 58 FR 10205).*

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Military Personnel Information Files.'

SYSTEM LOCATION:

Delete entry and replace with 'Military Personnel offices at DMA Offices of Human Resources, Military Personnel Division; DMA Bethesda; DMA St. Louis; and at Defense Mapping School, Ft. Belvoir, VA. Official mailing addresses are published as an appendix to DMA's compilation of systems of records.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Copies of Army, Air Force, Navy, or Marine Corps qualification records and assignment orders. Copies of leave requests, biographies, evaluation/fitness reports, security information, completed decoration documents, and finance action forms. Routine correspondence regarding assignment actions, duty assignments, extension of DMA tour, requests for training, etc.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'To determine the acceptability of an individual nominated by the parent service for a DMA position: to be used in the preparation of efficiency/fitness/effectiveness reports, award recommendations, and other personnel actions. Documents used to assist HRM personnel in serving as liaison between the individual, DMA, and the servicing Military Personnel offices.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Retain until departure of individual from DMA. Hold one year and destroy.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Office of Human Resources, Military Personnel Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.'

* * * * *

B0614–01

SYSTEM NAME:

Military Personnel Information Files.

SYSTEM LOCATION:

Military Personnel offices at DMA Offices of Human Resources, Military Personnel Division, (HRM); DMA Bethesda; DMA St. Louis; and at the Defense Mapping School, Ft. Belvoir, VA. Official mailing addresses are published as an appendix to DMA's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel assigned to DMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of Army, Air Force, Navy, or Marine Corps qualification records and assignment orders. Copies of leave requests, biographies, evaluation/fitness reports, security information, completed decoration documents, and finance action forms. Routine correspondence regarding assignment actions, duty assignments, extension of DMA tour, requests for training, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3l0l.

PURPOSE(S):

To determine the acceptability of an individual nominated by the parent service for a DMA position: to be used in the preparation of efficiency/fitness/effectiveness reports, award recommendations, and other personnel actions. Documents used to assist HRM personnel in serving as liaison between the individual, DMA, and the servicing Military Personnel offices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by name of individual.

SAFEGUARDS:

Records are maintained in a secured area/locked file cabinets with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retain until departure of individual from DMA. Hold one year and destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Human Resources, Military Personnel Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Office of Human Resources Military Personnel Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of Human Resources Military Personnel Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, current address and telephone number, service number on all correspondence received from this office. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification, such as, drivers license, employing office's identification cards, and give some

verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual's Service Military Personnel Center, the individual's rating official within the DMA and the individual concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

B0615-07

SYSTEM NAME:

Safety Awards Files *(February 22, 1993, 58 FR 10206).*

* * * * *

SYSTEM LOCATION

Delete entry and replace with 'Primary location: DMA Fairfax, Human Resources Safety and Health Division.

Decentralized locations: Records Holding Area, Administrative Operations Division. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'File contains a list of the names of drivers who have received safe driver awards.'

* * * * *

B0615–07

SYSTEM NAME:

Safety Awards Files.

SYSTEM LOCATION:

Primary location: DMA Fairfax, Human Resources Safety and Health Division.

Decentralized locations: Records Holding Area, Administrative Operations Division. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Defense Mapping Agency driver.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains a list of the names of drivers who have received safe driver awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4503, Agency Awards.

PURPOSE(S):

To document presentation of safety awards to individuals in compliance with established policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are maintained in a secured area/locked file cabinets with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Destroy when 5 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Human Resources Safety and Health Division, ST A–8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Human Resources Safety and Health Division, ST A–8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Human Resources Safety and Health Division, ST A–8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, current address and telephone number, and the case control number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, such as, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Driver record of the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

B0901–07

SYSTEM NAME:

Alcoholism and Drug Abuse Files *(February 22, 1993, 58 FR 10207).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: DMA Fairfax.

Decentralized locations: DMA Bethesda, DMA Reston, and DMA St. Louis. Records Holding Area, Administrative Operations Division. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

* * * * *

SYSTEM MANAGER:

Delete entry and replace with 'Office of Human Resources, Work Force Management Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.'

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B0901–07

SYSTEM NAME:

Alcoholism and Drug Abuse Files.

SYSTEM LOCATION:

Primary location: DMA Fairfax.

Decentralized locations: DMA Bethesda, DMA Reston, and DMA St. Louis. Records Holding Area, Administrative Operations Division. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees who have contacted program counselor requesting assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains counseling interview notes, medical documents, therapy/treatment referral notes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C 1175; 5 U.S.C. 7301; 42 U.S.C. 290dd–3 and 290ee–3; Pub. L. 100–71; E.O. 12564, Drug-Free Federal Workplace; and E.O. 9397.

PURPOSE(S):

To maintain documents relating to alcohol and narcotic control, treatment, assistance, and advice provided to DMA personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with provisions of 5 U.S.C. 7301 and 42 U.S.C. 290dd–3 and 290ee–3, the Defense Mapping Agency 'Blanket Routine Uses' do not apply to this system of records.

Records in this system may not be disclosed without the prior written consent of such patient, unless the disclosure would be:

To medical personnel to the extent necessary to meet a bona fide medical emergency;

To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner; and

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed chronologically by number; names deleted, but are known by counselor.

SAFEGUARDS:

Records are maintained in a secured area/locked file cabinets with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Destroy when 3 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Human Resources, Work Force Management Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137..

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Human Resources Work Force Management Division, ST B–5, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Human Resources Work Force Management Division, ST B–5, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, current address and telephone number, and Social Security Number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, such as, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Employee interviews and medical reports. Employee or relatives.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

B0901–08

SYSTEM NAME:

Civilian Employee Drug Abuse Testing Program Records *(February 22, 1993, 58 FR 10208).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: DMA Fairfax, DMA.

Decentralized locations: DMA Bethesda, DMA Reston, and DMA St. Louis. Records Holding Area, Administrative Operations Division. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

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SYSTEM MANAGER:

Delete entry and replace with 'Office of Human Resources, Work Force Management Division, ST A-8, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031-2137.

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B0901–08

SYSTEM NAME:

Civilian Employee Drug Abuse Testing Program Records.

SYSTEM LOCATION:

Primary location: DMA Fairfax, DMA.

Decentralized locations: DMA Bethesda, DMA Reston, and DMA St. Louis. Records Holding Area, Administrative Operations Division. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of, and applicants for positions in the Defense Mapping Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the selection, notification, and testing of employees and applicants; collection authentication and chain of custody documents; laboratory test results information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7301 and 7361; Pub. L. 100–71; E.O. 12564, Drug-Free Federal Workplace; and E.O. 9397.

PURPOSE(S):

The system is established to maintain Drug Program Coordinator records on the selection, notification, and testing of employees and applicants (i.e., urine specimens, drug test results, chain of custody records, etc.) for illegal drug use.

Records contained in this system are also used by DMA's Medical Review Official; the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; and management officials within DMA having authority to take adverse personnel action against such employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with the provisions of 5 U.S.C. 7301, the DMA 'Blanket Routine Uses' do not apply to this system of records.

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders and secured file cabinets. Electronic records exist on magnetic tape, diskette, or other machine readable media.

RETRIEVABILITY:

Records are retrieved by Agency activity name, employee or applicant name, Social Security Number, Identification Number assigned, collection site, date of testing, or any combination of these.

SAFEGUARDS:

Paper records are stored in file cabinets that are locked when not being used. Electronic records are accessed on computer terminals in supervised areas using a system with password access safeguards. All employee and applicant records are maintained and used with the highest regard for employee and applicant privacy. Only persons on a need-to-know basis and trained in the handling of information protected by the Privacy Act have access to the system.

RETENTION AND DISPOSAL:

Records on employees are retained for two years. Records on applicants are maintained for a period not to exceed six months. Records are destroyed by shredding, burning, or, in the case of electronic records, by erasure.

SYSTEM MANAGER(S) AND ADDRESS:

DMA Drug Program Manager, Human Resources Work Force Management Division, ST B–5, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if this system of records contains information about themselves must address written inquiries to the DMA Drug Program Manager, Human Resources Work Force Management Division, ST B–5, 8613 Lee Highway, Fairfax, VA 22031–2137.

Requests must contain the full name, Social Security Number, current address and telephone number of subject individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records must address written inquiries to the DMA Drug Program Manager, Human Resources Work Force Management Division, ST B–5, 8613 Lee Highway, Fairfax, VA 22031–2137.

Requests must contain the full name, Social Security Number, current address and telephone number of subject individual.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records in this system are obtained from the individual to whom the records pertain; agency employees, supervisors, and management officials involved in the DMA Drug Abuse Testing Program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Delete the current addresses directory and replace with:

DEFENSE MAPPING AGENCY OFFICIAL MAILING ADDRESSES

DMA Fairfax, ATTN: GCM St A-7, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

DMA St. Louis, 3200 South Second Street, St. Louis, MO 63118–3399.

DMA Bethesda, 4600 Sangamore Road, Bethesda, MD 20816–5003.

DMA Reston, 12310 Sunrise Valley Drive, Reston, VA 22091–3414.

Defense Mapping School, 5825 21st Street, Suite 106, Ft. Belvoir, VA 22060–5921.

[FR Doc. 95–17113 Filed 07–12–95; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0045]

Clearance Request for Bid, Performance, and Payment Bonds

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 (9000–0045).

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 Bid, Performance, and Payment Bonds.

FOR FURTHER INFORMATION CONTACT:

Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

''Bond'' means a written instrument executed by the contractor (the ''principal'') and a second party (the ''surety'' or ''sureties'') to assure fulfillment of the principal's obligations to a third party (the ''obligee'' or ''Government'') identified in the bond. If the principal's obligations are not met, the bond assures payment, to the extent stipulated, of any loss sustained by the obligee.

The Miller Act (40 U.S.C. 270a–270e) requires performance and payment bonds for any construction contract exceeding $25,000, unless it is impracticable to require bonds for work performed in a foreign country, or it is otherwise authorized by law. Bonds may be required for other contracts when it is deemed appropriate.

The bond(s) are retained by the obligee (the Government) until the principal's (the contractor's) obligation is fulfilled.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .42 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 General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: *Respondents*, 19,075; *responses per respondent*, 4.87; *total annual responses*, 92,895; *preparation hours per response*, .42; and *total response burden hours*, 39,016.

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. 9000–0045, Bid, Performance, and Payment Bonds, in all correspondence.

Dated: June 23, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–17101 Filed 7–12–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0023]

Clearance Request for Balance of Payments Program Certificate

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 (9000–0023).

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 Balance of Payments Program Certificate.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the Balance of Payments Program, unless specifically exempted by statue or regulation, the Government gives preferences to the acquisition of domestic end products or services, provided that the cost of the domestic items is reasonable. The Balance of Payments Program differs from the Buy American Act in that it applies to acquisitions for use outside the United States.

The contracting officer uses the information to identify which end products or services are domestic, and which are of foreign origin. In order to be considered domestic, the cost of its components mined, produced, or manufactured in the United States must exceed 50 percent of the cost of all its components. Services are considered domestic if 25 percent or less of their total cost are attributable to performance occurring outside the United States. The contracting officer determines reasonableness of cost by applying an evaluation factor of 50 percent. If this procedure results in a tie, the domestic offer shall be considered successful.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .167 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 General Services Administration, FAR Secretariat, 18th & F Streets, NW., Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: *Respondents,* 1,243; *responses per respondent,* 5; *total annual responses,* 6,215; *preparation hours per response,* .167; and *total response burden hours,* 1038.

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. 9000–0023, Balance of Payments Program Certificate, in all correspondence.

Dated: June 21, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–17102 Filed 7–12–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0003]

Clearance Request for Statement of Contingent or Other Fees, Standard Form 119

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 (9000–0003).

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 Statement of Contingent or Other Fees, Standard Form 119.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Contractor's arrangements to pay contingent fees for soliciting or obtaining Government contracts have long been considered contrary to public policy because such arrangements may lead to attempted or actual exercise of improper influence. By way of this representation, prospective contractors are required to state whether or not they have used such an arrangement to obtain the contract.

The information is used by Government Contracting Officers to determine the appropriateness of awarding a contract to the submitting firm.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.33* 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 General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: *Respondents,* 2,500; *responses per respondent,* 10; *total annual responses,* 25,000; *preparation hours per response,* .33; and *total response burden hours,* 8,333.

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. 9000–0003, Statement of Contingent or Other Fees, Standard Form 119, in all correspondence.

Dated: June 21, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–17103 Filed 7–12–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0027]

Clearance Request for Value Engineering Requirements

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 (9000–0027).

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 Value Engineering Requirements.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: *Respondents, 400; responses per respondent, 4; total annual responses, 1,600; preparation hours per response, 30;* and *total response burden hours, 48,000.*

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: *Recordkeepers, 1,600; hours per recordkeeper, 15;* and *total recordkeeping burden hours, 24,000.*

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. 9000–0027, Value Engineering Requirements, in all correspondence.

Dated: June 21, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–17104 Filed 7–12–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 13 July 1995.

Time of Meeting: 0900–1700.

Place: Pentagon–Washington, DC.

Agenda: The Army Science Board (ASB) C4I Issue Group will commence an Ad Hoc Study on ''The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems.'' This Ad Hoc Study is co-sponsored by the Director of Information Systems for Command, Control, Communications and Computers (DISC4) and the Deputy Chief of Staff for Intelligence (DCSINT). Assorted briefings and discussions will be conducted. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call Michelle Diaz at (703) 695–0781.

Karen Blystone,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–17333 Filed 7–12–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before August 14, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated July 7, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Extension.
Title: Application for Institutional Participation.
Frequency: On Occasion.
Affected Public: Individual or households; business or other for-profit; not for profit institutions.
Reporting Burden: Responses: 12,440; Burden Hours: 197,005.
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0.
Abstract: The Institutional Eligibility regulations govern the initial and continuing eligibility of Postsecondary educational institutions participating in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: National Assessment of Educational Progress (NAEP).
Frequency: Annually.
Affected Public: Individuals or households; not for profit institutions.
Reporting Burden: Responses: 828,996; Burden Hours: 1,110,176.
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0.
Abstract: The NAEP, known as the nation's report card, assesses students age 9/grade 4, age 13/grade 8, and age 17, grade 12 in selected subject areas, collects background information from the students, their teachers, and the schools they attend. From these data cross-sectional and trend results are reported about students in those ages/grades. Subjects to be assessed in 1996 are reading, mathematics, and science.

Office of Intergovernmental and Interagency Affairs

Type of Review: Revision.
Title: President's Education Awards Program.
Frequency: Annually.
Affected Public: Individual or households; not-for-profit institutions; State, Local or Tribal Government.
Reporting Burden: Responses: 52,000; Burden Hours: 17,333.
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0.
Abstract: This form will be sent to all public and private elementary and secondary schools. Those that wish to participate in the President's Education Awards Program will return the order form confirming their address, and indicate on the form the number of awards needed at the school.

Office of Management

Type of Review: Reinstatement.
Title: Protection of Pupil Rights Information Collections (Notification of Rights Under PPRA).
Frequency: Annually.
Affected Public: State, Local or Tribal Government.
Reporting Burden: Responses: 15,713; Burden Hours: 3,928.
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0.
Abstract: The Protection of Pupil Rights Amendment, as amended by Public Law 103–227, requires educational agencies and institutions to notify parents and students of their rights under the law. The proposed regulations will limit this requirement to local educational agencies (LEAs) on the elementary and secondary level.

[FR Doc. 95–17141 Filed 7–12–95; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1234–000, et al.]

Prairie Winds Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

July 6, 1995.

Take notice that the following filings have been made with the Commission:

1. Prairie Winds Energy, Inc.

[Docket No. ER95–1234–000]

Take notice that on June 19, 1995, Prairie Winds Energy, Inc. (Prairie Winds), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1.

Prairie Winds intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Prairie Winds sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Prairie Winds is not in the business of generating, transmitting, or distributing electric power.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Pennsylvania Power & Light Company

[Docket No. ER95–1267–000]

Take notice that on June 26, 1995, Pennsylvania Power & Light Company (PP&L), tendered for filing information with respect to the adoption of new accounting methods in certain of its contract rate schedules concerning post-retirement benefits other than pensions as set forth in the Statement of Financial Accounting Standard No. 106 by the Financial Accounting Standards Board. PP&L's filing is made to comply with the Commission's Statement of Policy issued December 17, 1992, in Docket No. PL93–1–000, *Post-Employment Benefits Other Than Pensions*, 61 FERC ¶ 61,330 (1992), *order on reh'g*, 65 FERC ¶ 61,035 (1995).

PP&L also requested a waiver of the three-year implementation requirement of SFAS 106 for its wholesale customers in light of the fact that its wholesale customers currently receive service from PP&L via settlements entered into in 1994 which have been approved by the Commission and are not subject to modification. Additionally, to the extent the Commission deemed its prior notice requirements applicable to this filing, PP&L requested that the Commission waive such requirements.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Colorado

[Docket No. ER95–1268–000]

Take notice that on June 26, 1995, Public Service Company of Colorado (Public Service), tendered for filing a Point-to-Point Transmission Service Tariff (TST) and Network Integration Transmission Service Tariff (collectively, Tariffs). Public Service states that the Tariffs are intended to provide transmission service over its transmission system at terms and conditions that are comparable to its own use of its system. Public Service further states that the TST is to supersede Public Service's existing open-access point-to-point transmission tariff. Public Service requests that the Tariffs be made effective on August 25, 1995, sixty days from the date of filing.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. E Prime Inc.

[Docket No. ER95–1269–000]

Take notice that on June 26, 1995, E Prime Inc. (E Prime), tendered for filing an application asking for blanket authorization and certain waivers of the Commission's Regulation to enable it to

act as a power marketer. E Prime asks that these authorizations and waivers be made effective on the date that the comparable transmission tariffs of its affiliates, Public Service Company of Colorado, becomes effective.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. West Texas Utilities Company

[Docket No. ER95–1270–000]

Take notice that on June 26, 1995, West Texas Utilities Company (WTU) submitted for filing five executed Delivery Point and Service Specifications sheets providing for various minor changes to the Service Agreement between WTU and three of its wholesale customers: Southwest Texas Electric Cooperative, Concho Valley Electric Cooperative and Taylor Electric Cooperative, executed under WTU's FERC Electric Tariff, Original Volume No. 1.

WTU states that copies of the filing have been sent to the Public Utility Commission of Texas and the affected full-requirements wholesale customers.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER95–1271–000]

Take notice that on June 27, 1995, the American Electric Power Service Corporation (AEPSC), tendered for filing, as an Initial Rate Schedule, two Agreements dated February 1, 1995 and one Agreement dated April 1, 1995, between AEPSC, as agent for the AEP System Operating Companies, and Catex-Vitol Electric, Engelhard Power Marketing, Inc., and Kimball Power Company, respectively (Marketers).

The Agreements provide the Marketers access to the AEP System for short-term transmission service. The parties request an effective date of June 27, 1995.

A copy of the filing was served upon the Marketers and the state regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Commonwealth Edison Company

[Docket No. ER95–1272–000]

Take notice that on June 27, 1995, Commonwealth Edison Company (ComEd), submitted a Service Agreement, dated April 25, 1995, establishing Kimball Power Company (Kimball) as a customer under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of May 27, 1995, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Kimball and the Illinois Commerce Commission.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER95–1273–000]

Take notice that on June 27, 1995, New England Power Company, tendered for filing an Amendment to FERC Electric Tariff, Original Volume No. 5.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER95–1274–000]

Take notice that on June 27, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Central Hudson Gas & Electric Corporation (CHG&E). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to CHG&E and CHG&E will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 28, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and CHG&E.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17201 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC95–15–000 et al.]

Southern Indiana Electric and Gas Co., et al.; Electric Rate and Corporate Regulation Filings

July 5, 1995.

Take notice that the following filings have been made with the Commission:

1. Southern Indiana Electric and Gas Company

[Docket No. EC95–15–000]

Take notice that on June 23, 1995, Southern Indiana Gas and Electric Company (SIGECO), submitted an application pursuant to Section 203 of the Federal Power Act for authority to effect a ''disposition of facilities'' that would be deemed to occur as a result of a proposed corporate restructuring, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The application states that the proposed restructuring would be accomplished through the creation of a holding company of which SIGECO would become a subsidiary. It is stated that the proposed restructuring is intended to position SIGECO for electric utility industry restructuring, increase financial flexibility, and better insulate utility customers from the risks of non-utility enterprises. The restructuring, it is said, will not affect jurisdictional facilities, rates or services.

Comment date: July 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Illinois Power Company

[Docket No. ER95–764–001]

Take notice that on June 9, 1995, Illinois Power Company tendered for filing modifications to its proposed transmission tariff in the above-referenced docket.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. PECO Energy Company

[Docket No. ER95–975–000]

Take notice that on June 12, 1995, PECO Energy Company (PECO) tendered for filing a letter agreement (Supplement) revising the Agreement for System Energy, Installed Capacity and Import Capability Transactions (Agreement), between PECO and Baltimore Gas and Electric Company which was filed on April 26, 1995 in the above-referenced docket.

PECO states that the Supplement revises the maximum price for Installed Capacity Credits. PECO continues to request that the Commission permit the Agreement and Supplement to become effective on May 1, 1995.

PECO states that copies of this filing are being furnished to all parties on the service list compiled by the Secretary as well as to the Pennsylvania Public Utility Commission.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1201–000]

Take notice that on June 12, 1995, Consolidated Edison Company of New York, Inc. (''Con Edison'') tendered for filing an agreement with Associated Power Services, Inc. (''APSI'') to provide for the sale of energy and capacity. For energy sold by Con Edison the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC (where such 10 percent is limited to 1 mill per Kwhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity sold by Con Edison is $7.70 per megawatt hour. All energy and capacity sold by APSI will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon APSI.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER95–1257–000]

Take notice that on June 23, 1995, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission standard form Service Agreement signed by Illinova Power Marketing, Inc. under Idaho Power Company's FERC Electric Tariff, Second Revised, Volume No. 1.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER95–1258–000]

Take notice that on June 23, 1995, Idaho Power Company (Idaho Power) tendered for filing with the Federal Energy Regulatory Commission a Letter Agreement in which Idaho Power agrees to supply Illinova Power Marketing, Inc. 24 hour transaction accounting services.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Tampa Electric Company

[Docket No. ER95–1259–000]

Take notice that on June 23, 1995, Tampa Electric Company (Tampa Electric) tendered for filing a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and South Carolina Electric & Gas Company (SCE&G). The Contract provides for the negotiation of individual power sales transactions between the parties. Tampa Electric also tendered a Certificate of Concurrence executed by SCE&G in lieu of an independent filing.

Tampa Electric proposes that the Contract be made effective on August 22, 1995.

Copies of the filing have been served on SCE&G and the Florida and South Carolina Public Service Commission.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Corporation

[Docket No. ER95–1260–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on June 23, 1995, tendered for filing as an initial rate schedule, an agreement with Engelhard Power Marketing, Inc. (Engelhard). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Engelhard and Engelhard will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on June 24, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Engelhard.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. J.L. Walker & Associates

[Docket No. ER95–1261–000]

Take notice that J.L. Walker & Associates (JLW) on June 26, 1995, tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, a petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, be effective on September 1, 1995.

JLW intends to engage in electric power and energy transactions as a marketer and broker. In transactions where JLW purchases power, including capacity and related services from electric utilities, qualifying facilities, and independent power producers, and resells such power to other purchasers, JLW will be functioning as a marketer. In JLW's marketing transactions, JLW proposes to charge rates mutually agreed upon by the parties. Sales will be at arms length, and no sales will be made to affiliated entities. In transactions where JLW does not take title for the electric energy and/or power, JLW will be limited to the role of a broker and charge a fee for its services. JLW is not in the business of producing or transmitting electric energy. JLW does not currently have or contemplate acquiring title to any electric power transmission facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that no sales may be made to affiliates.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Georgia Power Company

[Docket No. ER95–1263–000]

Take notice that on June 26, 1995, Georgia Power Company (GPC) filed a Short Term Capacity Exchange Agreement with South Carolina Electric & Gas Company (SCE&G).

Pursuant to the Agreement, SCE&G will have an option to schedule up to 100 Mw during the months of July and August, 1995. GPC will have similar rights during July and August, 1996. The only charge for the exchange will be reimbursement for the actual cost of energy.

GPC requests an effective date of July 1, 1995.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER95–1264–000]

Take notice that on June 26, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing, an amendment to its filing dated June 23, 1995 regarding the March-South Facilities Agreement with the Power Authority of the State of New York (NYPA).

Copies of this filing were served upon NYPA and the Public Service Commission of New York.

Comment date: July 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17202 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–P

Notice of Application Filed With the Commission

July 7, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License for Non-project Use of Project Lands.

b. *Project No.:* 2354–024.

c. *Date Filed:* July 3, 1995.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* North Georgia Project.

f. *Location:* Tallulah and Tugalo Rivers in Raburn, Habersham, and Stevens Counties, Georgia and Oconee County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. JoLee Gardner, Georgia Power Company, P.O. Box 4545, Atlanta, GA 30302, (404) 526–3576.

i. *FERC Contact:* Heather Campbell, (202) 219–3097.

j. *Comment Date:* July 31, 1995.

k. *Description of Project:* Georgia Power Company (GPC) proposes to lease land and grant a conservation easement for certain project lands to the Georgia Department of Natural Resources (GDNR) for the purpose of establishing Tallulah Gorge State Park and conservation area. The property is located in an area of Raburn and Habersham Counties known as the Tallulah Gorge. GPC filed the original request on February 19, 1993. In an order issued on June 25, 1994, the Commission staff approved the construction of the visitor's center and stated that the state park issue would be discussed in relicensing. Since the issuance of this order, GPC requested that the approval of the state park be handled in an expedited manner prior to relicensing to allow the GNDR to obtain State-appropriated funds for development and management of the park.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission, regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have not comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17200 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–378–000]

Algonquin LNG, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1995.

Take notice that on July 5, 1995, Algonquin LNG, Inc. (Algonquin LNG) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, effective July 10, 1995, the following revised tariff sheet:

Third Revised Sheet No. 65

Algonquin LNG states that the purpose of the filing is to revise the capacity release provisions of its tariff to conform to changes in Section 284.243(h)(1) of the Commission's Regulations pursuant to Order No. 577–A.

Algonquin LNG states that copies of its filing were mailed to all affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 925 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 14, 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 pubic inspection in the Pubic Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17154 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–379–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1995.

Take notice that on July 5, 1995, Algonquin Gas Transmission Company (Algonquin) submitted for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, effective July 10, 1995, the following revised tariff sheet:

Second Revised Sheet No. 650

Algonquin states that the purpose of this filing is to revise the capacity release provisions of its tariff to conform to changes in Section 284.243(h)(1) of the Commission's Regulations pursuant to Order No. 577–A.

Algonquin states that copies of its filing were mailed to all affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 14, 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. 95–17155 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–377–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1995.

Take notice that on July 5, 1995, Colorado Interstate Gas Company (''CIG''), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, as listed in Appendix A to the filing, with a requested effective date of August 1, 1995.

CIG proposes revisions to:

* Add a storage thermal tracker;
* Make minor change to the capacity release program and to comply with Order Nos. 577 and 577–A;
* Change the right of first refusal notice of intent to renew provisions;
* Make additions and clarifications to the scheduling section of the Tariff;
* Clarify the fuel reimbursement definition
* Correct the Point of Delivery applicable for Rate Schedule NNT–1 and TF–2;
* Make other minor housekeeping changes.

CIG states that copies of this filing were served upon all CIG transportation customers and State Commissioners where CIG provides transportation services.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such petitions or protests should be filed on or before July 14, 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. 95–17153 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–376–000]

Equitrans, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1995.

Take notice that on July 5, 1995, Equitrans, Inc. (Equitrans) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 10
Third Revised Sheet No. 304
Third Revised Sheet No. 306

These tariff sheets were filed with a proposed effective date of August 1, 1995 pursuant to Section 31.3, Transportation Fuel and Loss Retention Adjustment, contained in the General Terms and Conditions of Equitrans's FERC Gas Tariff, First Revised Volume No. 1.

Equitrans states that by this filing, it proposes to make effective, beginning August 1, 1995, a revised transportation retainage factor designed to retain in-kind the projected quantities of gas required for the operation of Equitrans's system in providing service to its customers. Equitrans is proposing by this filing to reduce its Retainage Factor applicable to its transportation rate schedules to 3.90% in accordance with the Stipulation and Agreement filed on January 19, 1995 in Docket No. RP93–187–008, et al., and approved by the Commission on April 13, 1995.

Any person desiring to be heard or protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 14, 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. 95–17152 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–258–001]

Florida Gas Transmission Company; Notice of Compliance Filing

July 7, 1995.

Take notice that on July 5, 1995, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

Third Revised Sheet No. 171

On June 8, 1995, an Order Granting Rehearing in Docket No. RM95–5–001 (Order No. 577–A), ''Release of Firm Capacity on Interstate Natural Gas Pipelines'' was published in the **Federal Register** to become effective on July 10, 1995. In the instant filing, FGT is complying with the Order Granting Rehearing by substituting ''31 days'' for ''one calendar month'' in the provisions applicable to Short-Term Prearranged

Temporary Relinquishments as contained in Section 18.E.2. of the General Terms and Conditions of FGT's FERC Tariff.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before July 14, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17150 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–595–000]

Kentucky Utilities Company; Notice of Filing

July 7, 1995.

Take notice that on June 16, 1995, Kentucky Utilities Company filed to withdraw the Letter of Agreement providing for power sales between itself and Wabash Valley Power Association, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 17, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17149 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–273–001]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1995.

Take notice that on July 5, 1995, Petal Gas Storage Company, (Petal) tendered for filing proposed changes in its FERC Gas Tariff, Volume No. 1.

Petal states that the proposed changes are intended to allow Petal to provide its firm customers to use the more flexible capacity release procedures set forth by the Commission in Order Nos. 577 and 577A. On May 2, 1995, Petal tendered tariff sheets entitled Second Revised Sheet No. 8 and First Revised Sheet No. 9 which were rejected by letter order dated June 5, 1995. Petal proposes that Substitute Second Revised Sheet No. 8 and Substitute First Revised Sheet No. 9 be made effective August 4, 1995.

Petal states that copies of the filing were served on the company's firm customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before July 14, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17151 Filed 7–12–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5257–4]

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 the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740, please refer to the EPA ICR No.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 0277.10; Application for New or Amended Registration; was approved 05/31/95; OMB No. 2070–0060; expires 05/31/98.

EPA ICR No. 1063.06; NSPS for Sewage Treatment Plant Incineration—Subpart O; was approved 06/07/95; OMB No. 2060–0035; expires 06/30/98.

EPA ICR No. 0574.08; Premanufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting and Recordkeeping Requirements for Chemical Substances; was approved 06/07/95; OMB No. 2070–0012; expires 10/31/96.

EPA ICR No. 1050.05; Storage Vessels for Petroleum Liquids—Subpart KA, Standards of Performance for New Stationary Sources; was approved 05/31/95; OMB No. 2060–0121; expires 05/31/98.

EPA ICR No. 1695.02; Emission Standards for New Nonroad Spark-Ignition Engines at or Below 19 Kilowatts (Small Nonroad Engines); was approved 06/05/95; OMB No. 2060–0338; expires 05/31/98.

EPA ICR No. 1741.01; Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Chemical Substance Inventory; was approved 05/31/95; OMB No. 2070–0145; expires 05/31/98.

OMB Disapproval

EPA ICR No. 1729.01; Disposal of Polychlorinated Biphenyls; Proposed Amendments Related Reporting and Recordkeeping Requirements; was disapproved 06/02/95.

Dated: July 6, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–17125 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5258–2]

Agency Information Collection Activities Up For Renewal

AGENCY: U.S. 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)

listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget, EPA is soliciting comments on specific aspects of the collection as described.

DATES: EPA requests comments by no later than September 11, 1995.

FOR FURTHER INFORMATION: Call the Acid Rain Hotline (202/233–9620), or Kenon Smith (202/233–9164). Send written comments (in duplicate) regarding these burden estimates or any other aspect of this information collection, including suggestions for reducing this burden, to Kenon Smith, 401 M Street, SW., 6204J, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: *Title:* Acid Rain Program ICR; OMB Control Numbers: 2060–0258 and 2060–0221.

Abstract: The Acid Rain Program was established under Title IV of the 1990 Clean Air Act Amendments. 40 CFR part 72 *et seq.* The program calls for major reductions of the pollutants that cause acid rain while establishing a new approach to environmental management.

Emissions monitoring and reporting is the foundation upon which the allowance trading system is based. Without accurate monitoring, recordkeeping, and reporting of emissions, the integrity and efficiency of the allowance system would be undermined. There would be no assurance that emissions had been reduced and economic benefits of a market-based system could not be realized.

The total public reporting burden for the regulations implementing the ARP was estimated in the Agency's initial ICR (2060–0221 and 2060–0258) at 1,880,959 hours distributed over approximately 2007 respondents affected by this rule. In order to obtain a permit, the public reporting burden to develop a permit application and compliance plan including certification of a designated representative is estimated at 370 hours per application. For tracking and transferring allowances, the public reporting burden to complete and submit an allowance tracking system general account application (if necessary) and an allowance transfer form is estimated to average 30 hours and 2 hours, respectively. The burden for assembling and submitting an application to obtain allowances from the conservation and renewable energy reserve is estimated to average 80 hours per application. To meet the emissions monitoring requirements, the public reporting burden is estimated to average 40 hours per report per plant for preparing and submitting quarterly emissions data reports, and 20 hours per plant for submitting a one-time monitoring plan. A burden on the voluntary small diesel refineries program is estimated to be 270 hours for the entire industry. The opt-in program carries an estimated reporting burden averaging 80 hours per response and an annual recordkeeping burden averaging 2 hours per respondent. Finally, for auctions and direct sales, the estimated burden for submitting a bid or application is approximately 5 hours. All these burden estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the necessary data, and completing the collection of information.

In addition to the above requirements, affected sources must meet the annual compliance certification requirements; the public burden for this annual year-end reporting is estimated at 8,416 hours, which includes the submission of detailed information on plant operations, such as utilization data and dispatch system information. These estimates for compliance reporting are not included in the above total burden estimates which are already in the existing ICR.

The information collection requirements and detailed information on the burden estimates contained in the ICR document (Jan. 11, 1993) are available for viewing at Air Docket No. A–91–43. The EPA would like to elicit comments to:

(1) Evaluate 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Dated: June 28, 1995.

Janice Wagner,

Acting Director, Acid Rain Division.

[FR Doc. 95–17209 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5257–2]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Public Review of a Notification of Intent To Certify Equipment

AGENCY: Environmental Protection Agency.

ACTION: Notice of agency receipt of a notification of intent to certify equipment and initiation of 45-day public review and comment period.

SUMMARY: The Agency has received from the Lubrizol Corporation, a notification of intent to certify urban bus retrofit/rebuild equipment pursuant to 40 CFR Part 85, Subpart O. EZ–TRAP™ is Lubrizol's trademark for this equipment. Pursuant to § 85.1407(a)(7), today's **Federal Register** notice summarizes the notification below, announces that the notification is available for public review and comment, and initiates a 45-day period during which comments can be submitted. The Agency will review this notification of intent to certify, as well as comments received, to determine whether the equipment in the notification of intent to certify should be certified. If certified, the equipment can be used by urban bus operators to reduce the particulate matter of urban bus engines.

This notification of intent to certify, as well as other materials specifically relevant to it, are contained in Category VI–A of Public Docket A–93–42, entitled ''Certification of Urban Bus Retrofit/Rebuild Equipment''. This docket is located at the address below.

Today's notice initiates a 45-day period during which the Agency will accept written comments relevant to whether or not the equipment included in this notification of intent to certify should be certified. Comments should be provided in writing to Public Docket A–93–42, Category VI–A, at the address below. An identical copy should be submitted to William Rutledge, also at the address below.

DATES: Comments must be submitted on or before August 28, 1995.

ADDRESSES: Submit separate copies of comments to each of the two following addresses:

1. U.S. Environmental Protection Agency, Public Docket A–93–42 (Category VI–A), Room M–1500, 401 M Street S.W., Washington, DC 20460.
2. William Rutledge, Technical Support Branch, Manufacturers Operations Division (6405J), 401 ''M'' Street S.W., Washington, DC 20460.

The Lubrizol notification of intent to certify, as well as other materials specifically relevant to it, are contained

in the public docket indicated above. Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged by the Agency for copying docket materials.

FOR FURTHER INFORMATION CONTACT: William Rutledge, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. Telephone: (202) 233–9297.

SUPPLEMENTARY INFORMATION:

I. Background

On April 21, 1993, the Agency published final Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (58 FR 21359). The retrofit/rebuild program is intended to reduce the ambient levels of particulate matter (PM) in urban areas and is limited to 1993 and earlier model year (MY) urban buses operating in metropolitan areas with 1980 populations of 750,000 or more, whose engines are rebuilt or replaced after January 1, 1995. Operators of the affected buses are required to choose between two compliance options: Program 1 sets particulate matter emissions requirements for each urban bus engine in an operator's fleet which is rebuilt or replaced; Program 2 is a fleet averaging program that sets out a specific annual target level for average PM emissions from urban buses in an operator's fleet.

A key aspect of the program is the certification of retrofit/rebuild equipment. To meet either of the two compliance options, operators of the affected buses must use equipment which has been certified by the Agency. Emissions requirements under either of the two options depend on the availability of retrofit/rebuild equipment certified for each engine model. To be used for Program 1, equipment must be certified as meeting a 0.10 g/bhp-hr PM standard or as achieving a 25 percent reduction in PM. Equipment used for Program 2 must be certified as providing some level of PM reduction that would in turn be claimed by urban bus operators when calculating their average fleet PM levels attained under the program.

Under Program 1, additional information regarding cost must be submitted in the notification of intent to certify, in order for certification of that equipment to initiate (or trigger) program requirements for a particular engine model. In order for the equipment to serve as a trigger, the certifier must guarantee that the equipment will be offered to affected operators for $7,940 or less at the 0.10 g/bhp-hr PM level, or for $2,000 or less for the 25 percent or greater reduction in PM. Both of the above amounts are based on 1992 dollars and include life cycle costs.

II. Notification of Intent To Certify

By a notification of intent to certify dated May 15, 1995, Lubrizol Corporation has applied for certification of equipment applicable to certain petroleum-fueled diesel engines used in urban buses of 1993 and earlier model years. The notification of intent to certify states that the candidate equipment will comply with the 0.10 g/bhp-hr particulate matter (PM) standard on petroleum fueled diesel engines that have been rebuilt to the engine manufacturer's specifications. No life cycle cost data is submitted with the notification of intent to certify, therefore, the equipment will not trigger program requirements. The use of the equipment by transit operators to meet program requirements is discussed further below.

Major components of the candidate equipment are: (1) A ceramic particulate filter assembly for the diesel exhaust, which in most installations takes the place of the original system muffler; (2) a proprietary diesel fuel soluble catalyst (additive); (3) gold plated fuel injectors; and, (4) a sensor to monitor engine exhaust backpressure. In operation, copper in the fuel additive (EZ–ADD™) is deposited on the ceramic exhaust filter along with exhaust particulates. The copper acts as a catalyst to lower the oxidation temperature of the particulates and thus promotes auto-regeneration of the trap under a variety of operating conditions. The nozzle tips of the fuel injectors are gold plated to minimize formation of deposits.

The notification of intent to certify states that the candidate equipment is applicable to the following engines:

Manufacturer	Engine model	Model Year
Cummins	L–10	1985–1991
Cummins	L–10 EC	1992–1993
Cummins	C-Series	1990–1992
Cummins	B-Series	1990–1992
MAN		1979–1992
Caterpillar	3208	1982–1992

Lubrizol Corporation presents exhaust emission data from testing the equipment on a recently rebuilt 1987 model year Cummins L–10 engine documenting PM emissions from one cold start cycle plus seven hot start cycle transient exhaust emission tests. During one of the hot cycles the trap experienced significant regeneration. The PM emissions from this cycle, the highest of all cycles (including the cold cycle), was 0.028 g/bhp-hr. Exhaust testing with the equipment installed also showed that hydrocarbon (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x), emissions were less than the federal emission standards for 1987. Smoke emission measurements for the engine with the candidate equipment installed indicates compliance with applicable standards, with smoke opacity measurements of less than 1 percent for the acceleration, lugging, and peak modes.

Lubrizol Corporation has submitted no life cycle cost information for this equipment because it is not intended to trigger program requirements. Therefore, its use will be at the option of urban bus operators and will not be required if the Agency approves the request for certification of this candidate equipment.

Section 85.1406(d) of the regulations governing urban bus equipment certification states, in part, ''* * * installation of any certified retrofit/rebuild equipment shall not cause or contribute to an unreasonable risk to the public health, welfare or safety * * *''. Information on health effects related to the candidate equipment has been provided by Lubrizol with its notification of intent to certify, and this has been reviewed by the Agency's Office of Research And Development (ORD). In its report entitled ''Inhalation Risk Assessment Of Lubrizol Corporation's EZ–TRAP ™ System'', ORD indicates the potential for dioxin formation. The report states:

''ORD's major concern is whether the use of the EZ–TRAP™ system with Lubrizol would, or would not, result in dioxin formation and emissions. Although there are no data relating to dioxin formation in diesel engines generally, ORD's concern in this instance is based on the similarity of the experimental evidence defining the requisite conditions for dioxin formation in combustion processes, post-combustion, with the conditions anticipated with the use of the copper-based additive in diesel fuel burned by buses. Specifically, with regard to the latter; (1) particles are retained in the filter trap at temperatures associated with formation in other combustion sources; (2) the particles provide reactive surfaces for chemical reactions to transpire; (3) trace levels of chlorine may be present in the diesel fuel; and, (4) copper is the most potent catalyst identified to date in the overall dioxin formation reactions.

''Therefore, based on a review of the available information, ORD concludes

that although the EZ–TRAP™ System will likely reduce health hazards associated with the pollutant emissions from diesel-fueled vehicles; it is not possible at present to state whether the net public health risk would increase, decrease, or remain unchanged. This is due to the lack of information on inhalation of combustion products from copper-containing diesel fuel, similarity of test engine conditions to real world operation conditions, and potential dioxin formation and emissions.''

The ORD report is available in the public docket. The Agency requests information on dioxin formation in diesel exhaust, especially as it relates to use of a copper-based fuel additive.

Section 211 of the Clean Air Act sets forth fuel and fuel additive prohibitions, and gives the Agency authority to waive certain of those prohibitions. The Agency, however, does not believe that Lubrizol must obtain a fuel additive waiver under Section 211(f)(4) of the Clean Air Act before certifying its additive system for the following reasons.

The Act prohibits the introduction into commerce of any fuel or fuel additive that is not substantially similar to a fuel or fuel additive used in the certification of any model year 1975 or later vehicle or engine under Section 206. The Administrator may waive this prohibition, if she determines that certain criteria are met. The Agency believes that certification of an urban bus retrofit system constitutes the certification of an engine under Section 206, and, since the additive is used in the certification of the system, a waiver is not required to market the additive for use with the certified retrofit system.

Section 206 grants the Agency authority to issue a certificate of conformity to any vehicle that complies with regulations promulgated under Section 202.[1] Section 219(d) requires the Agency to regulate emissions from existing urban buses, and explicitly states that such regulations shall be promulgated under Section 202(a). Therefore, it is clear that Congress intended the urban bus retrofit standards to be Section 202 standards. Because the urban bus standards are Section 202 standards, the Agency can issue a certificate of conformity to those standards under Section 206. When the certification requirements of the urban bus retrofit program were issued, the Agency stated that those requirements are authorized by Section 206 (among other sections of the Act). 58 FR at 21377, n.1 (April 21, 1993).

Further, the Agency believes that certification of an urban bus retrofit system qualifies as certification of a vehicle or engine. Certification of a retrofit system is certification of an engine because, under the urban bus retrofit regulations, such systems are certified for urban bus engines of specific engine families, and can only be used for engines in those families. The entire engine configuration (i.e., the existing engine combined with the retrofit system) must comply with the certification requirements in the urban bus retrofit regulations. In contrast, if retrofit systems were not certified on an engine family-specific basis, the Agency believes that such certifications would arguably not constitute the certification of an engine.

The argument that the urban bus retrofit system certification is the certification of an engine is supported by provisions in the urban bus regulations that are designed to ensure that the entire configuration (i.e., the engine plus the retrofit system) complies with applicable Section 202 emissions standards. These ''safeguards'' address the same concerns that the Section 211(f)(4) fuel additive waiver process is designed to address, i.e., the effect of a fuel additive on the emissions performance of the engine in which it is used.

First, when applying for certification of a retrofit system, the manufacturer must provide the Agency with a statement that use of the system ''will not cause a substantial increase to urban bus engine emissions in any normal driving mode not represented during certification testing.'' 40 CFR 85.1407(a)(1)(x). In addition, the Agency can deny certification, or decertify equipment, if there is reason to believe that the use of such equipment will cause an urban bus engine to exceed any applicable emission standard. At any time prior to certification, the Agency may notify the manufacturer that the equipment will not be certified pending further investigation, on the basis of information or test results from the manufacturer or on the basis of public comment, that indicates use of the equipment could cause an urban bus engine to exceed any applicable emission requirement, or could cause or contribute to an unreasonable risk to public health, welfare, or safety. 40 CFR 85.1408 (a)(2) and (a)(3). The manufacturer must respond in writing to such notification, or the Agency shall withdraw its notification of intent to certify. Finally, the equipment certifier must warrant that its retrofit equipment, if properly installed and maintained, will not cause an urban bus engine to exceed applicable emissions standards for a period of 150,000 miles following installation of the equipment.

Because certification of an urban bus retrofit system is an engine certification, Lubrizol's copper additive is ''substantially similar'' for purposes of Section 211(f)(1)(B) in the limited context of use in certified trap systems. The Agency has previously interpreted the term ''substantially similar'' as used in Section 211(f)(1) only in the context of introduction into commerce for general use. The approach discussed in this analysis would be a departure from this historical practice, because the copper additive would be deemed substantially similar only for a limited use (i.e., in a certified trap system). A Section 211(f)(4) waiver would be required to introduce the additive into commerce for any other use.[2] The Agency solicits comment on possible measures to ensure that the additive will only be used in certified retrofit systems.

At a minimum, the Agency expects to evaluate this notification of intent to certify, and other materials submitted as applicable, to determine whether there is adequate demonstration of compliance with: (1) the certification requirements of Section 85.1406, including whether the testing accurately substantiates the claimed emission reduction or emission levels; and, (2) the requirements of Section 85.1407 for a notification of intent to certify.

The Agency requests that those commenting also consider these regulatory requirements, plus provide comments on any experience or knowledge concerning: (a) Problems with installing, maintaining, and/or using the candidate equipment on applicable engines; and, (b) whether the equipment is compatible with affected vehicles.

If the Agency approves Lubrizol's request to certify this candidate equipment, urban bus operators who choose to comply with either Program 1 or Program 2 of the urban bus regulation may use the Lubrizol equipment. If certified, operators under Program 2 using this equipment will use the PM emission level(s) established during the certification review process, in the calculations for fleet level attained (FLA). Lubrizol projects a post-rebuild PM level of 0.01 g/bhp-hr with the

[1] Section 202(a) authorizes the Agency to establish emissions standards for new motor vehicles and new motor vehicle engines.

[2] This interpretation of ''sub-sim'' raises potential enforcement concerns, since the Agency does not have authority to enforce against an end user who may use the additive without the trap system.

equipment installed on the Cummins L–10 engine.

The date of this notice initiates a 45-day period during which the Agency will accept written comments relevant to whether or not the equipment described in the Lubrizol notification of intent to certify should be certified pursuant to the urban bus retrofit/rebuild program. Interested parties are encouraged to review the notification of intent to certify and provide comments during the 45-day period. Please send separate copies of your comments to each of the above addresses.

The Agency will review this notification of intent to certify, along with comments received from interested parties, and attempt to resolve or clarify issues as necessary. During the review process, the Agency may add additional documents to the docket as a result of the review process. These documents will also be available for public review and comment within the 45-day period.

Dated: July 5, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–17127 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5258–1]

Workshop on Exposure Factors Handbook

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: This notice announces a peer review workshop sponsored by the U.S. Environmental Protection Agency's (EPA's) Risk Assessment Forum to review revisions to EPA's 1989 Exposure Factors Handbook (Handbook; EPA/600/8–89/043).

DATES: The workshop will begin on Tuesday, July 25, 1995, at 8:30 a.m. and end on Thursday, July 26, 1995, at 4 p.m. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the DoubleTree Hotel Park Terrace, 1515 Rhode Island Avenue, NW., at Scott Circle, Washington, DC.

Eastern Research Group, Inc. (ERG), an EPA contractor, is providing logistical support for the peer review workshop. Members of the public wishing to attend the workshop as an observer must register by phone with ERG at 617/674–7374 before July 20, 1995. Please note that space is limited and registrations will be accepted on a first-come, first-serve basis.

FOR FURTHER INFORMATION CONTACT: William P. Wood, U.S. Environmental Protection Agency, Risk Assessment Forum (8101), 401 M Street, SW., Washington, DC 20460, Tel: (202) 260–6743.

SUPPLEMENTARY INFORMATION: The revised Exposure Factors Handbook is intended to serve as a support document to EPA's Exposure Assessment Guidelines (57 FR 22888; May 29, 1992) by providing data on factors that may be needed to calculate human exposure to toxic chemicals. The Guidelines were developed to promote consistency across exposure assessment activities carried out by various EPA offices. The Handbook provides a common data base that all Agency programs can use to derive values for exposure assessment factors.

To obtain a single copy of the draft 1995 Handbook, interested parties should contact the ORD Publications Office, Center for Environmental Research Information, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Tel: 513/569–7562, Fax: 513/569–7566. Please provide your name, mailing address, and EPA document number EPA/600/P–95/002A. The document should be available for distribution on or about July 20, 1995.

Dated: July 5, 1995.

J.K. Alexander,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–17124 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5257–1]

Public Meetings of the Urban Wet Weather Flows Advisory Committee and the Sanitary Sewer Overflows Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) is convening two separate public meetings: (1) The Urban Wet Weather Flows Advisory Committee (UWWF) meeting on August 2 and 3, 1995, and (2) the Sanitary Sewer Overflows (SSOs) Subcommittee meeting on August 17 and 18, 1995. These meetings are open to the public without need for advance registration. The UWWF Advisory Committee will discuss: (1) Substantive issues related to wet weather flows which may include water quality based requirements, control technologies, financial capability, monitoring, environmental measures of success, watershed approach; (2) procedural issues related future Committee meetings; (3) goals, objectives, and desired outcomes of the Committee; and (4) information needs for future discussions. The Committee's agenda will also include a status report on the SSO Subcommittee and the Storm Water Phase II Subcommittee (dealing with discharges from sources other than those now requiring permits in the first phase of the storm water program). The SSO Subcommittee will discuss: (1) Goals, objectives and desired outcomes for the SSO policy dialogue, such as ensuring national consistency and adequate municipal investment in collection system operation and maintenance; (2) compliance priorities; (3) the overall SSO Strategy flowchart and components of the flowchart developed by the Subcommittee at its previous meeting; and (4) how watershed concepts could be incorporated into SSO efforts.

DATES: The UWWF Advisory Committee meeting will be held on August 2 and 3, 1995. On the 2nd, the meeting will begin at approximately 8:30 a.m. EST and run until about 5:00 p.m. On the 3rd, the meeting will run from about 8:30 a.m. until completion. The SSO Subcommittee meeting will be held on August 17 and 18, 1995. On the 17th, the meeting will begin at approximately 8:30 a.m. EST and run until about 5 p.m. On the 10th, the meeting will run from about 8:30 a.m. until completion.

ADDRESSES: The UWWF Advisory Committee and the SSO Subcommittee meetings will be held at the Georgetown University Conference Center, 3800 Reservoir Road, Washington DC 20057. The Conference Center telephone number is (202) 687–3200.

FOR FURTHER INFORMATION: For UWWF Advisory Committee meeting, contact William Hall, Matrix Manager, Office of Wastewater Management, at (202) 260–1458, or Internet: hall.william@epamail.epa.gov.

For SSO Subcommittee meeting, Contact Lam Lim of EPA's Office of Wastewater Management, at (202) 260–7371.

Dated: June 29, 1995.

Michael Cook,

Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 95–17126 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board Action To Release and Discharge Receiver and Cancel Charter (Articles of Incorporation) of the Richmond Production Credit Association

AGENCY: Farm Credit Administration.

ACTION: Notice.

On July 7, 1995, the Farm Credit Administration Board executed FCA Board Action NV 95–43 barring claims, discharging and releasing the Receiver and cancelling the Articles of Incorporation of the Richmond Production Credit Association arising out of the voluntary liquidation of the association. The text of the FCA Board Action is set forth below:

Farm Credit Administration Board Action To Release and Discharge Receiver and Cancel Charter (Articles of Incorporation) of the Richmond Production Credit Association

Whereas, on November 8, 1988, the Board of Directors of the Richmond Production Credit Association (Richmond PCA), headquartered in Harris, Texas, under its authority in section 4.12 of the Farm Credit Act of 1971, as amended, adopted a resolution to place the Richmond PCA into voluntary liquidation;

Whereas, on January 6, 1989, the Farm Credit Administration (FCA) Board, after consultation with the Farm Credit Bank of Texas, determined under its authority in section 4.12 of the Act and 12 CFR 611.1160 that the statutory grounds existed to approve the Richmond PCA's request for voluntary liquidation and appointment of a receiver, and did place the Richmond PCA in receivership;

Whereas, on January 6, 1989, the FCA Board, by FCA Board Action BM–06–JAN–89–08, did appoint James C. Larson as the receiver for the Richmond PCA (Receiver), and published the notice of appointment in the **Federal Register** on January 12, 1989, at 54 FR 1234, as required by FCA regulations;

Whereas, on January 6, 1989, the FCA Board approved the temporary reassignment of the territory served by the Richmond PCA to the El Campo Production Credit Association (El Campo PCA); and on October 1, 1991, permanently reassigned this territory to the El Campo PCA; WHEREAS, all assets of and claims against the Richmond PCA have been disposed of by the Receiver in accordance with the provisions of FCA regulations and the written agreement between the Receiver and the FCA (Receivership Agreement) dated January 13, 1989, and effective January 6, 1989, and subsequently amended on April 25, 1989, October 30, 1989, January 29, 1990, and July 12, 1990;

Whereas, in accordance with the provisions of FCA regulations and the Receivership Agreement, all claims filed by creditors and holders of equity have been paid or provided for, including, without limitation, certain administrative expenses that the Receiver has paid;

Whereas, the final audit of the Richmond PCA was completed by KPMG Peat Marwick LLP, an independent auditor, as of May 31, 1995; and

Whereas, on July 6, 1995, the FCA issued to the Receiver a final Report of Examination of the Richmond PCA as of June 30, 1995;

Now, therefore, it is hereby ordered that:

1. All claims of creditors, stockholders, holders of participation certificates, and other equities, and of any other persons and/or entities against the Richmond PCA, and, all claims against the Receiver to the extent they arise out of the actions of the Receiver in carrying out the liquidation for the period January 6, 1989, through the effective date of this FCA Board Action, are hereby forever and completely discharged and released against the Richmond PCA and the Receiver, and the commencement of any action, the employment of any process, or any other act to collect, recover, or offset any such claims is hereby forever barred.

2. The Receiver's accounts of the Richmond PCA for the period from January 6, 1989, through the effective date of this FCA Board Action are hereby approved.

3. Except as provided in the Receivership Agreement, the Receiver is hereby finally and completely discharged and released from any responsibility or liability to the FCA or any other persons or entities arising out of, related to, or in any manner connected with the administration and liquidation of the Richmond PCA during the period January 6, 1989, through the effective date of this FCA Board Action. The FCA Board Action BM–06–JAN–89–08 is hereby superseded and terminated by this FCA Board Action.

4. The Articles of Incorporation of the Richmond PCA are hereby cancelled.

5. The foregoing FCA Board Action shall be effective at 5:00p.m. Eastern Daylight Savings Time on July 10, 1995.

Signed by Doyle Cook, Board Member, Farm Credit Administration, on July 7, 1995.

Dated: July 10, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–17183 Filed 7–12–95; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime commission's implementing regulations at 46 CFR part 540, as amended:

Hanseatic Tours Reisedienst GmbH, Hanseatic Cruises GmbH and Bunnys Adventure and Cruise Shipping Company Limited, c/o Radisson Seven Seas Cruises, Inc., 600 Corporate Drive, Suite 410, Fort Lauderdale, Florida 33334

Vessel: HANSEATIC

Date: July 10, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–17165 Filed 7–12–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Radisson Seven Seas Cruises, Inc., Hanseatic Tours Reisedienst GmbH and Hanseatic Cruises GmbH, 600 Corporate Drive, Suite 410, Fort Lauderdale, Florida 33334

Vessel: HANSEATIC

Dated: July 10, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–17164 Filed 7–12–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Joseph Industries, Inc. d/b/a, Joseph International Freight Services, 848 Newall Avenue, Muscatine, IA 52761
Officers: Raul Anthony Joseph, President, Ralph Joseph, Treasurer, Minachie Zena Joseph, Treasurer,

Dimerc USA, Inc., 11551 SW. 97th Street Miami, FL 33176,
Officer: Lizette I. Diaz, President

Val-Mar International, Inc., 950 Eller Dr., B–1, P.O. Box 105132, Ft. Lauderdale, FL 33316
Officers: Valerie Knapp-Banker, President, Maria Holloway, Vice President

Dated: July 10, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–17163 Filed 7–12–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Horizon Bancorp, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 27, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Horizon Bancorp, Michigan City, Indiana; to engage *de novo* through its subsidiary, The Loan Store, Inc., Michigan City, Indiana, in originating, making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. Midstates Bancshares, Inc., Missouri Valley, Iowa; to engage *de novo* through its subsidiary, Midstates Financial Services, Inc., Harlan, Iowa, in investment advisory services, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 7, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17188 Filed 7–12–95; 8:45 am]

BILLING CODE 6210–01–F

Yellow Medicine Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 7, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Yellow Medicine Bancshares, Inc., Granite Falls Minnesota; to acquire 100 percent of voting shares of Echo Bancshares, Inc., Echo, Minnesota, and thereby indirectly acquire Citizens State Bank of Echo, Echo, Minnesota.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Vallicorp Holdings, Inc., Fresno, California; to merge with El Capitan Bancshares, Inc., Sonora, California, and thereby indirectly acquire El Capitan National Bank, Sonora, California.

Board of Governors of the Federal Reserve System, July 7, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17189 Filed 7–12–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974: Computer Matching Agreement

AGENCY: General Services Administration (GSA).

ACTION: Notice of a computer matching program between GSA and the United States Postal Service (USPS).

SUMMARY: Subsection (e)(12) of the Privacy Act, as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) requires agencies to publish advance notice of computer matching programs as a means of informing benefit recipients and employees of plans to conduct computer matches. This publishes notice that the GSA proposes to conduct a computer matching

program with the USPS. Under the program, the USPS will compare its payroll records with the GSA's debtor records to identify postal employees delinquent in paying their debts to the GSA. The GSA will contact the affected employees and take steps to collect the debts, using the salary offset provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) when the individuals do not pay their debts voluntarily.

DATES: The GSA must receive any comments no later than August 14, 1995. Unless GSA receives comments that result in a contrary decision, the matching program covered by this notice begins no sooner than 30 days after the published notice has been sent to the Congress and to the Office of Management and Budget, and a copy of the matching agreement has been sent to the Congress.

ADDRESSES: Comments may be sent to the Records Officer, General Services Administration, 18th and F Streets, NW., Washington, DC 20405 or delivered to room 7102 at the above address between 8 a.m. and 4:30 p.m. on weekdays. Comments received may be examined in room 7102 during the above hours.

FOR FURTHER INFORMATION CONTACT: Mary L. Cunningham, Records Officer (202) 501–1659).

SUPPLEMENTARY INFORMATION: Through the matching program, the GSA expects to obtain the home and work addresses of 3,077 delinquent debtors. Under this program and a similar one being conducted with the Defense Manpower Data Center, the Government should recover an estimated $225,000 per year.

Report of a Computer Matching Program—United States Postal Service and the General Services Administration (Comparing USPS Payroll and GSA Debtor Records)

A. *Participating agencies.* The USPS is the recipient agency and will perform the computer match against debtor records provided by the GSA, the source agency in the matching program.

B. *Purpose of the program.* The matching program will compare the USPS payroll and the GSA delinquent debtor files to identify postal employees who may owe delinquent debts to the Federal Government. The pay of an employee identified and verified as a delinquent debtor may be offset under the Debt Collection Act of 1982, when the employee does not pay the debt voluntarily.

C. *Legal authorities authorizing operation of the match.* The matching program is operated under the authority of the Debt Collection Act of 1982, which authorizes Federal agencies to offset a Federal employee's salary as a means of satisfying delinquent debts owed to the United States.

D. *Categories of individuals matched and identification of records used.* The systems of records maintained by the participating agencies under the Privacy Act of 1974, from which records are to be disclosed under the matching program are:

1. The USPS will use records from its system ''Finance Records—Payroll System, USPS 050.020,'' containing records of about 700,000 employees. Routine use 24 of USPS 050.020, which appeared at 57 FR 57515 on December 4, 1992, covers the disclosure.

2. The GSA will use records from its system ''GSA/PPFM–7, Credit Data on Individual Debtors.'' It contains records of about 3,077 debtors. Routine use ''i'' of that system, which was last published at 58 FR 64588 on December 8, 1993, covers the disclosure.

E. *Description of the matching program.* With the USPS acting as recipient, the GSA provides a data extract to the USPS, sorted by Social Security Number (SSN) that contains the name and SSN of each employee. The USPS compares the data extract against its data base of employee records, establishing ''hits'' (names common to both files) based on matching SSN's. For each matched employee, the USPS provides to the GSA the name, SSN, home address, and place of work. The GSA screens the initial data to verify that the matched individual is a delinquent debtor not in a repay status. The agency conducts independent inquiries as needed to clarify questionable identities and reviews records of the suspected debtor's account to confirm that the debt is still unpaid and unresolved.

The Debt Collection Act requires the GSA to provide the suspected debtor advance notice and an opportunity to contest the alleged debt. The procedures include providing the debtor employee the following:

1. A 30-day written notice of the GSA's determination of the debt and the employee's rights under the Debt Collection Act;

2. An opportunity to examine and receive a copy of the GSA's documentation of the debt;

3. An opportunity for the employee to enter into a written agreement to repay the GSA;

4. An opportunity for the employee to have a hearing before someone who is not under the control of the GSA.

After independently verifying the debt and providing notice under subsection (p) of the Privacy Act, the GSA makes the final decision on the amount of the debt owed and establishes procedures for applying the offset from the disposable pay of the USPS employees to recover debts owed the United States through the GSA. Before asking the USPS to offset the salary of a debtor employee, the GSA is to certify, over the signature of a authorized GSA official, that it has followed the due process procedures required by the Debt Collection Act.

E. *Beginning and ending dates of the matching program.* The matching program is expected to begin no sooner than 30 days after the GSA sends this published notice to the Congress and to the Office of Management and Budget and sends a copy of the matching agreement to the Congress. The program is to continue in effect for 18 months. The agreement may be extended for 1 year beyond that period, if within 90 days before the matching agreement expires, the Data Integrity Boards of the USPS and the GSA find that the computer matching program will be conducted without change, and each party certifies that the matching program has been conducted within the terms of the matching agreement.

Dated: July 6, 1995.

Kenneth S. Stacey,

Acting Director, Information Management Division.

[FR Doc. 95–17134 Filed 7–12–95; 8:45 am]

BILLING CODE 6820–34–M

GOVERNMENT PRINTING OFFICE

Public Meeting for Federal, State and Local Agencies, and Others Interested in a Demonstration of GPO Access, the Online Service Providing the Federal Register and Other Federal Databases

The Superintendent of Documents will hold a public meeting for Federal, State and local government agencies, and any others interested in an overview and demonstration of the Government Printing Office's online service, *GPO Access,* provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Public Law 1030940).

Sessions will be held at the U.S. Government Printing Office, 732 North Capitol Street, Carl Hayden Room—8th Floor, Washington, DC 20401, on Tuesday, August 15, from 9 a.m. to 10:30 a.m. and 11 a.m. to 12:30 p.m. There is no charge to attend.

The online **Federal Register** Service offers access to the daily issues of the **Federal Register** by 6 a.m. on the day

of publication. All notices, rules, proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database as ASCII text files, with graphics provided in TIFF format and as Adobe Acrobat Portable Document Format (PDF) files. The online **Federal Register** is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through *GPO Access* include the *Congressional Record; Congressional Record Index,* including the *History of Bills;* Congressional Bills; Public Laws; *U.S. Code;* and *GAO Reports.*

Individuals interested in attending may reserve space by contacting John Berger, Product Manager at the GPO's Office of Electronic Information Dissemination Services, by Internet e-mail at john@eids05.eids.gpo.gov; by telephone: 20209512091525; or by fax: 20209512091262 . Seating reservations will be accepted through Thursday, August 10, 1995.

Michael F. DiMario,

Public Printer.

[FR Doc. 95–17117 Filed 7–12–95; 8:45 am]

BILLING CODE 1505–02–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: June 1995

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of June, 1995. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since June 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade SW., Aerospace Building, 7th Floor West, Washington DC 20447. FAX: (202) 205–3598 PHONE: (202) 401–9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

II. Listing of New and Pending Proposals for the Month of June, 1995

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the month of June, 1995.

Project Title: California—Work Pays Demonstration Project (Amendment)
Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.
Date Received: 3/14/94
Type: AFDC
Current Status: Pending
Contact Person: Glen Brooks, (916) 657–3291

Project Title: California—Assistance Payments Demonstration Project (Amendment)
Description: Would amend the Assistance Payments Demonstration Project by: exempting certain categories of AFDC families from the State's benefit cuts; paying the exempt cases based on grant levels in effect in California on November 1, 1992; and renewing the waiver of the Medicaid maintenance of effort provision at section 1902(c)(1) of the Social Security Act, which was vacated by the Ninth Circuit Court of Appeals in its decision in *Beno* v. *Shalala.*
Date Received: 8/26/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Michael C. Genest, (916) 657–3546

Project Title: California—Work Pays Demonstration Project (Amendment)
Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.
Date Received: 11/9/94
Type: AFDC
Current Status: Pending
Contact Person: Eloise Anderson, (916) 657–2598

Project Title: California—School Attendance Demonstration Project
Description: In San Diego County, require AFDC recipients ages 16–18 to attend school or participate in JOBS.
Date Received: 12/5/94
Type: AFDC
Current Status: Pending
Contact Person: Michael C. Genest (916) 657–3546

Project Title: California—Incentive to Self-Sufficiency Demonstration
Description: Statewide, would require 100 hours CWEP participation per month for JOBS mandatory individuals who have received AFDC for 22 of the last 24 months and are working fewer than 15 hours per week after two years from JOBS assessment and: have failed to comply with JOBS without good cause, have completed CWEP or are in CWEP less than 100 hours per month, or have completed or had an opportunity to complete post-assessment education and training; provide Transitional Child Care and Transitional Medicaid to families who become ineligible for AFDC due to increased assets or

income resulting from marriage or the reuniting of spouses; increase the duration of sanctions for certain acts of fraud
Date Received: 12/28/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Michael C. Genest (916) 657–3546

Project Title: Georgia—Work for Welfare Project
Description: Work for Welfare Project. In 10 pilot counties would require every non-exempt recipient and non-supporting parent to work up to 20 hours per month in a state, local government, federal agency or nonprofit organization; extends job search; and increases sanctions for JOBS noncompliance. On a statewide basis, would increase the automobile exemption to $4,500 and disregard earned income of children who are full-time students
Date Received: 6/30/94
Type: AFDC
Current Status: Pending
Contact Person: Nancy Meszaros, (404) 657–3608

Project Title: Hawaii—Families Are Better Together
Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC–UP families
Date Received: 5/22/95
Type: AFDC
Current Status: Pending
Contact Person: Patricia Murakami, (808) 586–5230

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration
Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities
Date Received: 7/26/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Faith Spencer, (913) 296–0775

Project Title: Maine—Project Opportunity
Description: Increase participation in Work Supplementation to 18 months; use Work Supplementation for any opening; use diverted grant funds for vouchers for education, training or support services; and extend transitional Medicaid and child care to 24 months
Date Received: 8/5/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Susan L. Dustin, (207) 287–3106

Project Title: Maryland—Welfare Reform Project
Description: Statewide, require minor parents to reside with a guardian; eliminate increased AFDC benefit for additional children conceived while receiving AFDC, with provision for third party payment or voucher/vendor payment for amount of the difference make rent vendor payments to local housing authority when delinquency exceeds 30 days; and issue AFDC benefits 14 days after date of application. In pilot sites, eliminate JOBS exemptions for having a child under age 3 and for having a medical disability of more than 12 months, unless the recipient applies for SSI; require able-bodied recipients who have received AFDC for 3 months to meet a work requirement (unless there is good cause) which will consist of full-time unsubsidized employment, 30 hours of subsidized employment, or a total of at least 20 hours of community service and employment; impose full-family sanction when JOBS non-exempt parent fails to comply with JOBS for 6 months and require parent to comply with JOBS for 30 days before reopening case; provide three more months of aid through a third party payment after full-family sanction is imposed; eliminate work supplementation program restriction from filling unfilled positions; eliminate work history and 100-hour rule requirements for AFDC–UP; require minimum of 20 hours of CWEP after three months of benefit receipt; disregard stepparent income if below 100% of poverty, reduce grant by 50 percent of need standard if income is between 100 and 150% of poverty, and make case ineligible if income is above 150% of poverty; base grant for families with earnings at 85 percent of difference between need standard and earnings; increase both auto and resource limits to $5000; disregard income of dependent children; provide one-time payment in lieu of AFDC benefits; require teen parents to attend family health and parenting classes; extend JOBS services to unemployed non-custodial parents; and cash-out food stamps for work supplementation cases
Date Received: 3/1/94 and 5/16/95 (Amendments)
Type: AFDC
Current Status: Pending
Contact Person: Katherine L. Cook, (410) 767–7338

Project Title: Massachusetts—Welfare Reform '95
Description: Statewide, would limit AFDC assistance to 24 months in a 60-month period, with provisions for extensions, for all non-exempt recipients; reduce benefits for non-exempt recipients by 2.75 percent, while increasing earned income disregard to $30 and one-half indefinitely; establish the Work Program designed to end cash assistance to non-exempt families, requiring recipients who cannot find at least 20 hours per week of paid employment after 60 days of AFDC receipt to do community service and job search to earn a cash ''subsidy'' that would make family income equal to applicable payment standard; fund subsidized jobs from value of AFDC grant plus cash value of Food Stamps for limited number of volunteer recipients; sanction individuals who fail to comply with the Work Program by a reduction in assistance equal to the parent's portion of the grant; establish an Employment Development Plan (EDP) for non-exempt participants not required to participate in the Work Program, requiring community service for second failure to comply with EDP and full-family sanction for second failure to comply with community service; require teen parents to live with guardian or in supportive living arrangements and attend school; require children under age 14 to attend school; eliminate grandparent-

deeming; strengthen paternity establishment requirements and allow the IV–D agency to determine if participants are cooperating; allow courts to order parents unable to pay child support to community service programs; exclude from the grant calculation children born to mothers while on AFDC; require child immunization; pay rent directly to landlords where caretaker has fallen behind six weeks in payments; increase asset level to $2,500; increase equity value of a vehicle to $5,000; establish wage assignment in cases of fraud or other overpayments; increased penalties for individuals who commit fraud, release AFDC fraud conviction information to Department of Revenue and the Social Security Administration for cross-check, and deny benefits to individuals with an outstanding default warrant issued by a State court; allow State to issue a clothing allowance voucher for each child; disregard the first $600 of lump sum income; require direct deposit of benefits for recipients with bank accounts; and disregard the 100-hour rule for eligibility for two-parent families.

Date Received: 4/4/95
Type: AFDC
Current Status: Pending
Contact Person: Valerie Foretra, (617) 348–5508

Project Title: Mississippi—A New Direction Demonstration Program—Amendment
Description: Statewide, would amend previously approved New Direction Demonstration Program by adding provision that a family's benefits would not increase as a result of additional children conceived while receiving AFDC.
Date Received: 2/17/95
Type: AFDC
Current Status: Pending
Contact Person: Larry Temple, (601) 359–4476

Project Title: New Hampshire—Earned Income Disregard Demonstration Project
Description: AFDC applicants and recipients would have the first $200 plus 1/2 the remaining earned income disregarded.
Date Received: 9/20/93
Type: AFDC
Current Status: Pending
Contact Person: Avis L. Crane, (603) 271–4255

Waiver Title: New Mexico—Untitled Project
Description: Would increase vehicle asset limit to $4500; disregard earned income of students; develop an AFDC Intentional Program Violation procedure identical to Food Stamps; and allow one individual to sign declaration of citizenship for entire case.
Date Received: 7/7/94
Type: AFDC
Current Status: Pending
Contact Person: Scott Chamberlin, (505) 827–7254

Project Title: North Dakota—Training, Education, Employment and Management Project
Description: Would require families to develop a social contract specifying time-limit for becoming self-sufficient; combine AFDC, Food Stamps and LIHEAP into single cash payment with simplified uniform income, expense and resource exclusions; increase income disregards and exempt stepparent's income for six months; increase resource limit to $5000 for one recipient and $8000 for families with two or more recipients; exempt value of one vehicle; eliminate 100-hour rule for AFDC–UP; impose a progressive sanction for non-cooperation in JOBS or with child support; require a minimum of 32 hours of paid employment and non-paid work; require participation in EPSDT; and eliminate child support pass-through
Date Received: 9/9/94
Type: AFDC
Current Status: Pending
Contact Person: Kevin Iverson, (701) 224–2729

Project Title: Ohio—Learning, Earning and Parenting (LEAP) program.
Description: Statewide, would modify and extend by 6 and ½ years the previously approved Learning, Earning, and Parenting Demonstration to requires enrollment and regular school attendance by pregnant and parenting teens; provide a $62 bonus or sanction based on attendance; require continued participation in JOBS by LEAP participants who turn 20 and have a child over 6 weeks of age; provide a $62 grade completion bonus for those in high school; provide a graduation or GED completion bonus of $200; implement a progressive sanction leading to removal of the needs of the teen parent and her child/children in determining amount of AFDC; and continue the LEAP progressive sanction when the participant turns 20, if she remains JOBS mandatory.
Date Received: 6/19/95
Type: AFDC
Current Status: New
Contact Person: Jackie Martin, (614) 466–8530

Project Title: Oregon—Expansion of the Transitional Child Care Program
Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.
Date Received: 8/8/94
Type: AFDC
Current Status: Pending
Contact Person: Jim Neely, (503) 945–5607

Waiver Title: Oregon—Increased AFDC Motor Vehicle Limit
Description: Would increase automobile asset limit to $9000.
Date Received: 11/12/93
Type: AFDC
Current Status: Pending
Contact Person: Jim Neely, (503) 945–5607

Project Title: Pennsylvania—School Attendance Improvement Program
Description: In 7 sites, would require school attendance as condition of eligibility.
Date Received: 9/12/94
Type: AFDC
Current Status: Pending
Contact Person: Patricia H. O'Neal, (717) 787–4081

Project Title: Pennsylvania—Savings for Education Program
Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts
Date Received: 12/29/94
Type: AFDC
Current Status: Pending
Contact Person: Patricia H. O'Neal, (717) 787–4081

Project Title: South Carolina—Family Independence Program
Description: Statewide, would, with exceptions, time limit AFDC benefits to families with able bodied adults to 24 months out of 120 months, not to exceed 60 months in a lifetime; eliminate increase in AFDC benefit resulting from birth of children 10 or more months after the family begins AFDC receipt, but provide benefits to such children in the form of vouchers for goods and services permitting child's mother to participate in education, training, and employment-related activities; eliminate deprivation requirements, principal earner provisions, work history requirements, and 100-hour rule for AFDC–UP; increase AFDC resource limit to $2,500 and disregard as resources one vehicle with a market value up to $10,000, the balance in an

Individual Development Account (IDA) up to $10,000, and the cash value of life insurance; disregard from income up to $10,000 in lump sum payments deposited in an IDA within 30 days of receipt, earned income of children attending school, and interest and dividend income up to $400; require participation in a family skills training program; require certain AFDC recipients to submit to random drug tests and/or participate in alcohol or drug treatment; require children to attend school; increase amount of child support passed through to AFDC recipients; require more extensive information for child support enforcement purposes; modify JOBS exemptions and good cause criteria, and increase sanctions for non-compliance; make job search a condition of eligibility; allow non-custodial parents of AFDC children to participate in JOBS; pay transitional grant equaling 3 percent of the maximum family grant following employment; and provide transitional grant Medicaid and child care for 12 months from the date of employment for cases previously closed due to time limit

Date Received: 6/12/95
Type: AFDC
Current Status: New
Contact Person: Linda Martin (804) 737–6010

Project Title: Texas—Service Management and Resources for Teens (SMART).
Description: Would, in pilot site, require non-parenting AFDC youth, age 10 and over, to participate in Communities in Schools (CIS) programs.
Date Received: 6/26/95
Type: AFDC
Current Status: New
Contact Person: Kent Gummerman (512) 450–3743

Project Title: Utah—Single Parent Employment Demonstration Program (Amendments)
Description: In designated pilot sites, would amend previously approved Single Parent Employment Demonstration Project by applying full-family sanction for repeated non-participation in JOBS; and, for two years after leaving AFDC, provide transitional JOBS support services, expanded income disregards and auto equity limits for Food Stamps, and optional Food Stamp cash-out.
Date Received: 5/17/95
Type: AFDC
Current Status: Pending
Contact Person: Bill Biggs, (801) 538–4337

Project Title: Washington—Success Through Employment Program
Description: Statewide, would eliminate the 100-hour rule for AFDC–UP families; impose a 10 percent grant reduction for AFDC recipients who have received assistance for 48 out of 60 months, and impose an additional 10 percent grant reduction for every additional 12 months thereafter, and budget earnings against the original payment standard; and hold the food stamp benefit level constant for cases whose AFDC benefits are reduced due to length of stay on assistance
Date Received: 2/1/95
Type: AFDC
Current Status: Pending
Contact Person: Liz Begert Dunbar, (206) 438–8350

Project Title: West Virginia—Joint Opportunities for Independence (JOIN)
Description: Statewide, would require one parent in an unemployed AFDC-UP applicant or recipient case, with exceptions, to participate 38 hours per week in work and job search activities; sanction the entire family when an individual does not comply; deny Food Stamps to sanctioned families and deny Medicaid to sanctioned adults, except for pregnant women; and freeze the level of Food Stamps benefits for sanctioned families at the pre-sanction level
Date Received: 4/11/95
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Sharon Paterno (304) 558–3186.

Project Title: Wisconsin—Self Sufficiency First (SSF)
Description: Statewide, would require applicant adults, as a condition of eligibility, to meet with a financial planning resource specialist prior to completing an application to examine alternatives to welfare; with some exceptions. If the applicant still wants to apply for assistance, as a condition of eligibility, individual must engage in at least 60 hours of JOB search activities during the 30 day application period. Would also limit JOBS exemptions.
Date Received: 4/18/95
Type: AFDC
Current Status: Pending
Contact Person: Jean Sheil (608) 266–0613.

Project Title: Wisconsin—Pay for Performance (PFP)
Description: Statewide, adult recipients will be required to participate in JOBS up to 40 hours per week; for each hour of non-participation the AFDC grant will be reduced by the federal minimum wage rate; if the AFDC grant is fully exhausted then the remaining sanction will be taken against the Food Stamp (FS) allotment; FS allotments will not be adjusted to account for AFDC reductions resulting from not participating in JOBS activities; if hours of participation fall below 25% of assigned hours without good cause then no AFDC grant will be awarded and the FS amount will be $10. Would also limit JOBS exemptions.
Date Received: 4/18/95
Type: AFDC
Current Status: Pending
Contact Person: Jean Sheil (608) 266–0613.

III. Listing of Approved Proposals Since June 1, 1995

Project Title: Virginia Independence Program
Contact Person: Barbara Cotter (804) 692–1811.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research)

Dated: July 6, 1995.

Howard Rolston,

Director, Office of Policy and Evaluation

[FR Doc. 95–17207 Filed 7–12–95; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 95F–0175]

Asahi Denka Kogyo K. K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K. K. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium 2,2′-methylenebis(4,6,-di-*tert*-butylphenyl) phosphate as a clarifying agent in polypropylene articles intended for contact with food.

DATES: Written comments on the petitioner's environmental assessment by August 14, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4458) has been filed by Asahi Denka Kogyo K. K., c/o Japan Technical Information Center, Inc., 775 South 23d St., Arlington, VA 22202. The petition proposes to amend § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) of the food additive regulations to provide for the safe use of sodium 2,2′-methylenebis(4,6,-di-*tert*-butylphenyl) phosphate as a clarifying agent in polypropylene articles intended for contact with food under conditions of use A and B as described in Table 2 of 21 CFR 176.170(c).

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before August 14, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: July 3, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–17232 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0161]

Ecolab Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ecolab Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a mixture of peroxyacetic acid, acetic acid, and hydrogen peroxide to control microbial growth in water contacting fruits and vegetables.

DATES: Written comments on the petitioner's environmental assessment by August 14, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5A4459) has been filed by Ecolab Inc., 370 North Wabasha St., St. Paul, MN 55102. The petition proposes to amend the food additive regulations in § 173.315 *Chemicals used in washing or to assist in the lye peeling of fruits and vegetables* (21 CFR 173.315) to provide for the safe use of a mixture of peroxyacetic acid, acetic acid, and hydrogen peroxide to control microbial growth in water contacting fruits and vegetables.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before August 14, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: July 3, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–17234 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0160]

Ecolab Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ecolab Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a mixture of peroxyacetic acid, hydrogen peroxide, acetic acid, and 1-hydroxyethylidene-1,1-diphosphonic acid to control microbial growth in water contacting fruits and vegetables.

DATES: Written comments on the petitioner's environmental assessment by August 14, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5A4460) has been filed by Ecolab Inc., 370 North Wabasha St., St. Paul, MN 55102. The petition proposes to amend the food additive regulation in § 173.315 *Chemicals used in washing or to assist in the lye peeling of fruits and vegetables* (21 CFR 173.315) to provide for the safe use of a mixture of peroxyacetic acid, acetic acid, hydrogen peroxide, and 1-hydroxyethylidene-1,1-diphosphonic acid to control microbial growth in water contacting fruits and vegetables.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may on or before August 14, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: July 3, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–17235 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95G–0156]

Sandoz Nutrition Corp.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sandoz Nutrition Corp. has filed a petition (GRASP 5G0414), proposing to affirm that partially hydrolyzed guar gum (PHGG) is generally recognized as safe (GRAS) as an ingredient in human food.

DATES: Written comments by September 26, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3107.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409(b)(5) (21 U.S.C. 321(s) and 348(b)(5)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Sandoz Nutrition Corp., 5320 West Twenty Third St., P.O. Box 370, Minneapolis, MN 55440, has filed a petition (GRASP 5G0414), proposing that PHGG be affirmed as GRAS for use in human food. The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in § 170.30 (21 CFR 170.30) and § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of the suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before September 26, 1995, review the petition and/or file comments (two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1995.

Alan M. Rulis,

Acting Dirctor, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–17233 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0202]

Drug Export; Preservative-Free Intravenous Sodium Edecrin® (Ethacrynate Sodium) 50 Milligrams (mg) Ethacrynic Acid Equivalent/50 Milliliters (mL) in 60 mL Glass Bottle

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Merck & Co. has filed an application requesting approval for the export of the human drug Preservative-Free Intravenous Sodium Edecrin® (ethacrynate sodium) 50 mg ethacrynic acid equivalent/50 mL in 60 mL glass bottle to Germany through the Netherlands for further packaging and labeling.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–594–3150.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Merck & Co., West Point, PA 19486, has filed an application requesting approval for the export of the human drug Preservative-Free Intravenous Sodium Edecrin® (ethacrynate sodium) 50 mg ethacrynic acid equivalent/50 mL in 60 mL glass bottle to Germany through the Netherlands for packaging and labeling. This product is used in the treatment of accumulation of fluid in tissues (edema, ascites) due to heart, hepatic, or renal disease as well as edemas of the following origin: Edema or ascites caused by tumor compression, lymphedema, and idiopathic edema. The product is being manufactured by a revised process. The firm has new drug application approval for a product containing a thimerosal preservative. The application was received and filed in the Center for Drug Evaluation and Research on May 17, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by July 24, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: June 26, 1995.

Betty L. Jones,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95–17236 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Warren Grant Magnuson Clinical Center: Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Scientific and Commercial Development of High Resolution PET Scanner Using Scintillation Cameras

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Nuclear Medicine Department in the Clinical Center at the Warren Grant Magnuson Clinical Center is seeking a collaborator with expertise in imaging equipment. The primary focus of this collaboration will be the development and commercialization of an imaging device that is capable of three distinct types of imaging at high resolution: Single photon planar imaging, single photon emission computed tomography (SPECT), and positron emission tomography (PET). An invention that has set the groundwork for this technology is claimed in U.S. Patent Applications 08/235,310, entitled ''Variable Axial Aperture Positron Emission Tomography Scanner'' (filed April 29, 1994) and (CIP) 08/357,574 (filed December 15, 1994). These patents have been filed for the initial phase of foreign filing (PCT) designating all states. NCI seeks a collaborator that will apply the technology to develop imagers for human subjects and/or for high resolution PET imaging of small animals.

Sponsors will be selected based on their ability to develop and commercialize the new imaging technology. NCI will enter into CRADA negotiations with the chosen sponsor with the intention of awarding a CRADA.

The term of the CRADA(s) is anticipated to be three (3) to five (5) years.

ADDRESSES: Inquiries and proposals regarding this opportunity should be addressed to either Michelle Rhyu or Bill Cotreau (Tel # 301–496–0477, Fax# 301–402–2117), Office of Technology Development, National Cancer Institute, Building 31, Room 4A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

DATES: Interested parties should notify this office in writing by September 11, 1995. Respondents will then be given an additional sixty (60) days for filing a formal proposal.

SUPPLEMENTARY INFORMATION: A Cooperative Research and Development Agreement (CRADA) is the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of October 10, 1987. Under the present proposal, the CRADA will focus on developing the following technology:

An instrument has been devised that utilizes conventional scintillation cameras to support single photon planar imaging, single photon emission computed tomography (SPECT), and positron emission tomography (PET). These multiple capabilities rely on the device's ability to efficiently detect gamma rays at single photon energies (<200 keV) and higher positron annihilation energies (511keV) required for PET. This dual ability is conferred by pivoting the detectors in conventional scintillation devices, which are capable of only SPECT and planar imaging, thereby increasing the path length of the high energy positron in the detector and enabling its detection. The cameras may rotate about a fixed target, or stationary cameras may surround a rotating target. The invention makes PET scanning on small animals feasible, allowing the economical collection of test data. Moreover, the invention presents a promising approach to economically increasing the detection capability of conventional SPECT scanners for humans.

Two broad advantages are provided by the present invention: (1) Resolution of PET is improved from 6mm to 2–3mm, making possible the resolution of organs in small animals. This expands the usefulness of small animals in research, for example in determining how test tracer molecules are incorporated into tumors, or how specific therapies affect tumor growth. The invention affords the advantage of using small animals, which are easier and less costly to maintain than larger animals. The ability to carry out PET analysis on smaller animals also circumvents the need to dissect the animal in order to assay an effect, greatly reducing the number of animals required for a study. (2) Applying this technology to human imagers, the invention provides a cost-effective way of improving diagnostic capabilities for

a relatively modest expense. For hospitals that may be financially prohibited from operating a full scale PET imaging system (including onsite cyclotron and radiochemistry lab) the present invention could impart PET scanning capabilities to the lower cost SPECT instruments, reducing overall cost and promoting widespread PET use. The collaboration would likely focus on demonstration of concept with a prototype system, development of methods to further increase coincidence detection efficiency, e.g., use of 3D reconstruction, and development of efficient methods for performing transmission imaging and other required corrections.

Background patent rights to this technology are available for licensing through the Office of Technology Transfer, NIH. Pertinent patent application claims may be obtained under a NIH Confidentiality Agreement for the Purpose of Reviewing Patent Application Claims. For this and further licensing information contact Mr. John Fahner-Vihtelic, Office of Technology Transfer, National Institutes of Health, Suite 325, 6011 Executive Boulevard, Rockville, Maryland 20852, Tel (301) 496–7057, Fax (301)402–0220.

Party Contributions

The role of the Warren Grant Magnuson Clinical Center includes the following:

(1) Cooperate with Collaborator to create a prototype SPECT/PET scanning device following the above described specifications; advise Collaborator on how best to scale up the invention into a prototype device.

(2) Evaluate prototypes produced by collaborator using small animal subjects.

(3) Provide personnel and laboratory space for these studies.

The role of the successful corporate sponsor(s) will include:

(1) Build a prototype SPECT/PET scanning device.

(2) Provide expertise in commercial scale up of imagers.

(3) Provide funding for assistance in supporting the research.

(4) Provide resources to bring product to market.

Selection Criteria

Proposals submitted for consideration should fully address each of the following qualifications:

(1) Expertise and experience in devising, producing and manufacturing imaging devices; specifically, sufficient expertise to collaborate on development of a SPECT/PET device.

(2) Willingness to produce a scanner optimized for small animal studies and/or a scanner for use on human subjects.

(3) Demonstrated ability to market invention to a broad client base.

(4) Willingness to cost share in laboratory studies including the funding of personnel dedicated to completion of the CRADA research project.

(5) Willingness to provide the Clinical Center with a prototype SPECT/PET device for future research.

(6) Submission of an initial response to the NIH Model CRADA boilerplate provisions.

(7) Provisions for equitable distribution of patent rights to any inventions generated in the performance of research under the CRADA. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with (1) an irrevocable, nonexclusive, royalty-free license to the government when a company employee is the sole inventor or (2) the grant of an option to negotiate for an exclusive or a nonexclusive license to the Collaborator when a government employee is the sole inventor.

Dated: May 7, 1995.

Steven M. Galen,

Technology Development Coordinator, Warren Grant Magnuson Clinical Center, National Institutes of Health.

[FR Doc. 95–17156 Filed 7–12–95; 8:45 am]

BILLING CODE 4140–01–P

Public Health Service

Office of Minority Health; Announcement of Cooperative Agreement With the Public Health Foundation, ASTHO

The Public Health Service (PHS), through the Office of Minority Health (OMH), announces that it will enter into a cooperative agreement with the Public Health Foundation (PHF) of the Association for State and Territorial Health Officials.

The purpose of the agreement is to provide core organizational support for the PHF so that it may serve as a link and forum for dialogue between PHS and State and local health officials on a variety of public health issues and topics. In support of the agreement, PHF will (1) participate in the planning and design of new strategies for collecting public health infrastructure data; (2) enhance the infrastructure for public health data at the State level; (3) serve as a forum for continuing dialogue in the area of integrated health information systems and public health applications of the National Information Infrastructure; and (4) expand its sphere to include the local public health community as well as State health agencies and develop and maintain linkages with organizations representing public sector alcohol, drug abuse and mental health agencies.

The PHS, through OMH and in coordination with other PHS agency officials, will maintain liaison with PHF staff to identify emerging topics and issues in the field of public health and meet to discuss the development and shaping of activities which address key problems and issues in public health.

Authorizing Legislation

This cooperative agreement is authorized under Section 1707(d)(1) of the Public Health Service Act, as amended by Public Law 101–527.

Background

Assistance will be provided only to the Public Health Foundation of the Association of State and Territorial Health Officials (ASTHO). No other applications will be solicited. ASTHO is the only organization capable of administering this cooperative agreement because it is the official organization that represents the chief public health officials of each State and territory. Through its own membership, PHF has developed a unique knowledge and understanding of the needs and perspectives of State health agencies.

This cooperative agreement will be awarded in FY 1995 for a 12-month budget period in the approximate amount of $200,000, within a 5-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Where To Obtain Additional Information

If you are interested in obtaining additional information relating to this project, please contact:

James Scanlon, Director, Data Policy Staff, Office of Health Planning and Evaluation, Office of the Assistant Secretary for Health, Hubert H. Humphrey Building, Room 737F, 200 Independence Avenue SW., Washington DC 20201, Telephone: (202) 690–7100

or

Dr. Clay E. Simpson, Jr., Acting Deputy Assistant Secretary for Minority Health, Rockwall II, Suite 1000, 5515 Security Lane, Rockville, MD 20852, Telephone: (301) 443–5084.

There is no Catalogue of Federal Domestic Assistance number for this program since it is viewed as a one-time project.

Dated: June 30, 1995.

Clay E. Simpson, Jr.,

Acting Deputy Assistant Secretary for Minority Health, Office of Minority Health.

[FR Doc. 95–17108 Filed 7–12–95; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. FR–3923–N01]

Payment of Claims Under the Military Personnel and Civilian Employees' Claims Act to HUD Oklahoma City Office Employees and their Survivors for Damage to, or loss of, Motor Vehicles as a Result of the Bombing of the Alfred P. Murrah Federal Building

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of waiver.

SUMMARY: This Notice announces a waiver, granted by the Secretary, of HUD's regulation at 24 CFR 17.44(d)(1). This section precludes payment by HUD of claims under the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 3721 *et seq.* (''the Act'') for damages to an employee-owned automobile used for travel to and from his/her duty station unless there had been prior specific authorization from the employee's supervisor that use of the automobile was advantageous to the Government. This waiver is for the purpose of facilitating payment to HUD employees and their survivors whose automobiles were damaged as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

The Act authorizes Executive Branch agencies to pay up to $40,000 to settle claims of agency employees for service related damages or destruction of personal property. The statute provides agency heads with discretion to make such payments and requires a determination that the possession of the property was reasonable or useful under the circumstances. HUD's regulation implementing the Act at 24 CFR 17.44(d)(1) prohibits payment of claims for damage to, or loss of, automobiles and motor vehicles used to travel from quarters to the office unless there has been specific prior authorization from the employee's supervisor that use of the vehicle was advantageous to the Government. The regulatory restriction is intended to preclude the payment of claims for damages incurred while commuting. However, under the circumstances surrounding the tragic bombing of the Alfred P. Murrah Federal Building in Oklahoma City, the regulation acts inadvertently and unreasonably to preclude the payment of claims to employees, and their survivors, for damage to, or loss of, their automobiles caused by the explosion.

Accordingly, the Secretary has determined that HUD's regulation presents an impediment to effectuating the remedial purpose of the Act and hereby waives the prior authorization provisions of 24 CFR 17.44(d)(1).

Dated: June 30, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–17221 Filed 7–12–95; 8:45 am]

BILLING CODE 4210–32–M

Office of Administration

[Docket No. N–95–3917–N–07]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 3, 1995.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Budget-Based Rent Increase.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Owners of certain cooperative and subsidized rental projects will be required to submit the Budget Worksheet when requesting a rent increase. HUD will use the information to evaluate owner expense estimates.

Form Number: HUD–92547–A.

Respondents: Not-For-Profit Institutions.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92547–A	12,500		1		1		12,500
Recordkeeping	12,500		1		.25		3,125

Total Estimated Burden Hours: 15,625.
Status: Extension with changes.
Contact: Barbara Hunter, HUD, (202) 708–3944; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: July 3, 1995.

[FR Doc. 95–17222 Filed 7–12–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–95–3904; FR–3903–C–02 and N–95–3909; FR–3904–C–03]

Notice of Funding Availability for Supportive Housing for Persons With Disabilities; Notice of Funding Availability for Supportive Housing for the Elderly; Corrections

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notices of funding availability (NOFAs) for fiscal year (FY) 1995; corrections.

SUMMARY: This notice corrects the address and phone number of HUD's Sacramento office in the FY 1995 NOFAs for Supportive Housing for Persons with Disabilities and the Elderly. This correction will ensure that applications from that area are sent to the correct address. This notice also corrects the allocation formula in the FY 1995 NOFA for Supportive Housing for Persons with Disabilities. This correction will eliminate language that was inadvertently copied from a previous year's NOFA and replace it with language that more accurately reflects the program's goals.

FOR FURTHER INFORMATION CONTACT: Margaret Milner, Acting Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410; telephone number (202) 708–4542 (voice); (202) 708–4594 (TDD). (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This notice announces two changes to HUD's Fiscal Year (FY) 1995 Supportive Housing Notices of Funding Availability (NOFAs). First, both the FY 1995 NOFA for Supportive Housing for Persons with Disabilities, published in the **Federal Register** on May 24, 1995 (60 FR 27600), and the NOFA for Supportive Housing for the Elderly, also published on May 24, 1995 (60 FR 27612), included an incorrect address and phone number for HUD's Sacramento, California office. The correct street address for that office is 777 12th Street. The correct phone number is (916) 498–5240.

Second, the FY 1995 NOFA for Supportive Housing for Persons with Disabilities included incorrect information on the formula HUD used to allocate the funds. HUD inadvertently copied the incorrect language from a previous year's NOFA. The correct allocation formula consists of the following two elements from the 1990 census: (1) The number of noninstitutionalized persons age 16 or older with a work disability and a mobility or self-care limitation; and (2) The number of noninstitutionalized persons age 16 or older having a mobility or self-care limitation but having no work disability.

Accordingly, FR Docs. 95–12715 and 95–12716, the Notice of Funding Availability (NOFA) for Supportive Housing for Persons with Disabilities, published in the **Federal Register** on May 24, 1995 (60 FR 27600), and the Notice of Funding Availability (NOFA) for Supportive Housing for the Elderly, also published in the **Federal Register** on May 24, 1995 (60 FR 27612), are corrected as follows:

1. On page 27600, in the NOFA for Supportive Housing for Persons with Disabilities, in column 3, section I.B., under the heading ''Allocation Amounts,'' the second paragraph is corrected to read as follows:

I. Purpose and Substantive Description

* * * * *

B. Allocation Amounts

* * * * *

The allocation formula for Section 811 funds consists of the following two data elements from the 1990 census:

1. The number of noninstitutionalized persons age 16 or older with a work disability and a mobility or self-care limitation; and

2. The number of noninstitutionalized persons age 16 or older having a mobility or self-care limitation but having no work disability.

* * * * *

2. On page 27610, in the NOFA for Supportive Housing for Persons with Disabilities, in column 3, under the heading ''Sacramento Area Office,'' the address is corrected to read as follows:

Sacramento Area Office

Suite 200, 777 12th Street, Sacramento, CA, 95814–1997, (916) 498–5240.

3. On page 27621, in the NOFA for Supportive Housing for the Elderly, in column 3, under the heading ''Sacramento Area Office,'' the address is corrected to read as follows:

Sacramento Area Office

Suite 200, 777 12th Street, Sacramento, CA, 95814–1997, (916) 498–5240.

Dated: July 6, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–17224 Filed 7–12–95; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for a Timber Harvest Operation by Red Oak Timber Company in Vernon Parish, Louisiana

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice.

SUMMARY: Pine Belt Regional Solid Waste Management Authority (Applicant) is seeking an incidental take permit from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act), as amended. The permit would authorize the take of the gopher tortoise (*Gopherus polyphemus*), a threatened species, in Perry County, Mississippi for a period of 20 years. The proposed taking is incidental to the construction and operation of a solid waste landfill within a 340-acre tract located approximately 2 miles north of Runnelstown in Sections 8 and 9, Township 5 North, Range 11 West.

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. The Service prepared the EA and the HCP was developed by the Applicant. Copies of the EA and HCP may be obtained by making a request to the Regional Office address below. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA, and HCP should be received on or before August 14, 1995.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Requests must be in writing to be processed. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, or the Jackson, Mississippi, Field Office.

Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Please reference permit under PRT–804406 in such comments.

Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, (telephone 404/679–7110, fax 404/679–7280)

Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213, (telephone 601/965–4900, fax 601/965–4340)

FOR FURTHER INFORMATION CONTACT: Will MacDearman at the Jackson, Mississippi, Field Office, or Rick G. Gooch at the Atlanta, Georgia, Regional Office.

SUPPLEMENTARY INFORMATION: The gopher tortoise, *Gopherus polyphemus*, is listed as a threatened species in the western part of its range, from the Tombigbee and Mobile Rivers in Alabama west to southeastern Louisiana. As a native burrowing species of the fire-maintained longleaf pine ecosystem, typical gopher tortoise habitat consists of frequently burned longleaf pine or longleaf pine/scrub oak uplands on moderately well-drained to xeric soils. About 80 percent of the original habitat for gopher tortoises has been lost due to urbanization and agriculture. Certain forest management practices in remaining upland pine habitats have also adversely affected the gopher tortoise. Silvicultural systems using intensive site preparation, dense plantations and stands of loblolly pine or slash pine, and infrequent fire have reduced or eliminated the open forest and sunny forest floor of grasses and forbs where gopher tortoises burrow, nest, and feed. Though gopher tortoises are widely distributed in south Mississippi, most populations are fragmented, small in size, and functionally non-viable.

Section 9 of the Act, and implementing regulations, prohibits taking the gopher tortoise. Taking, in part, is defined as an activity that kills, injures, harms, or harasses a listed endangered or threatened species. Section 10(a)(1)(B) of the Act provides an exemption, under certain circumstances, to the Section 9 prohibition if the taking is incidental to, and not the purpose of otherwise lawful activities.

Gopher tortoise surveys conducted by the Applicant have identified at least one tortoise and six other burrows in the landfill operations area. Two of these burrows exhibited signs of recent gopher tortoise use within the past year. This area will consist of four waste disposal cells and sites for the excavation and stocking of soil to be used to cover solid wastes. Tortoises within this area would be expected to be taken as an incidental consequence of landfill construction and operation. Heavy equipment operations can directly kill or injure tortoises as a result of their becoming crushed or entombed in burrows. The HCP describes measures the Applicant will take to avoid and mitigate such taking. Prior to landfill construction, the Applicant will survey the operations area to identify, trap, and relocate gopher tortoises to an adjacent site designated as a permanent gopher tortoise habitat conservation area. The conservation area, owned by the Applicant, consists predominately of suitable habitat, a longleaf pine/blackjack oak upland, that is partially occupied by other gopher tortoises. The Applicant will manage the conservation area using a program of prescribed fire and tree thinning to maintain and improve habitat conditions for the gopher tortoise. Without such active management, particularly the use of prescribed fire, gopher tortoise habitat would deteriorate as a natural consequence of ecological succession.

Also, a temporary conservation area will be managed using the same methods as in the permanent conservation area. About one-half of the temporary area contains solid waste cells that are forecast to be used about 20 years from now. No tortoises currently occupy this portion, though habitat is suitable. The remaining portion of the temporary area, which is occupied by tortoises, may be used within 5–10 years to provide soil for waste overfill. Tortoises in this remaining portion will be relocated to the permanent conservation area prior to landfill operations.

The EA considers the environmental consequences of two alternatives; issue the requested permit as conditioned by the HCP, or take no action (deny permit). The Service has made a preliminary determination that the Applicant has satisfactorily complied with the statutory and regulatory criteria for permit issuance. The Service's proposed alternative is to issue the requested incidental take permit. The principal environmental consequence of permit issuance, in the Service's assessment, is to the gopher tortoise. Permits authorizing the disposal and management of solid wastes at the landfill are otherwise administered according to Federal and State statutory/regulatory standards by the Environmental Protection Agency, the Mississippi Department of Environmental Quality, and the Mississippi Permit Board.

Dated: July 6, 1995.

Noreen K. Clough,

Regional Director.

[FR Doc. 95–17162 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[NV–060–1990–01; N64–95–001P]

Notice of Intent to Prepare an Environmental Impact Statement for the Ruby Hill Mining Plan of Operation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement for the Homestake Mining Company of California (HMC) Ruby Hill Project Plan of Operation for mining in Eureka County, Nevada, and notice of scoping period and public meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as amended, and to 43 Code of Federal Regulations Part 3809, the Bureau of Land Management, Battle Mountain District (BLM) will be directing the preparation of an Environmental Impact Statement (EIS) for the proposed development of an open pit mine and associated facilities, in Eureka County, Nevada. The EIS will be prepared by a third party consultant and funded by the proponent, HMC. The BLM invites comments and suggestions on the scope of the analysis.

DATES: Scoping meetings will be held on August 7, 1995, from 6–8 p.m. at the Opera House in Eureka, Nevada, 10201 Main St.; and on August 9, 1995, from 7–9 p.m. at the Airport Plaza Hotel, 1981 Terminal Way, in Reno, Nevada. The purpose of these meetings is to identify issues to be addressed in the EIS, and to encourage public participation in the NEPA process. BLM representatives will present an overview of the NEPA process, public involvement, and anticipated environmental impacts resulting from the project. HMC representatives will be summarizing the Plan of Operations. Additional briefing meetings will be held as necessary. Written comments on the scope of the EIS will be accepted through September 5, 1995.

ADDRESSES: Scoping comments may be sent to: BLM, Battle Mountain District Manager, 50 Bastian Rd., P.O. Box 1420, Battle Mountain, NV 89820 ATTN: John Noneman.

FOR FURTHER INFORMATION CONTACT: John Noneman or Lynn Pettit, Project Managers, at (702) 635–4000.

SUPPLEMENTARY INFORMATION: HMC has recently submitted a proposal to develop a mining facility to be located just North of the historic Ruby Hill Mine, South of Highway 50, approximately 1.5 miles Northwest of the town of Eureka, Nevada. The project would consist of construction, operation, reclamation, and closure of an open pit mine including waste rock dump, heap leach facilities, mine office/warehouse, truck shop, haul roads, ore stockpiles, access road, diversion ditches, power transmission lines, water supply wells and pipelines, process solution transmission pipelines and a landfill. The project area is located within portions of Township 19 North, Range 53 East MDM, sections 2 to 11, inclusive, 14 to 18, inclusive, and 20–23 inclusive and portions of Township 20 North, Range 53 East sections 28 and 31 to 35, inclusive. Under the proposed action, an estimated total disturbance of 731 acres would occur. The area described includes about 729 acres of public land administered by the BLM, and 2 acres of private land owned by HMC. Project access will be via an improved gravel road from Highway 50. Current estimates call for mining 3,000–4,000 tons of ore and 30,000–40,000 tons of waste rock per day with front end loaders and off-highway haulage trucks.

Potentially significant and significant direct, indirect, cumulative and residual impacts from the proposal will be analyzed in the EIS. Significant issues to be addressed in the EIS include those relating to air quality, cultural resources, and social and economic values. Additional significant issues to be addressed may arise during the scoping process. Federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the BLM's decision on this plan of operation are invited to participate in the scoping process.

Dated: July 7, 1995.

Michael C. Mitchel,

Acting District Manager.

[FR Doc. 95–17169 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–HC–P

[NM–010–1430–01; NMNM 1647]

Termination of Recreation and Public Purposes (R&PP) Classification and Opening Order, New Mexico

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice terminates R&PP Classification NMNM 1647. The land will be opened to the public land laws generally, including disposal through exchange.

EFFECTIVE DATE: Termination of the classification is effective upon publication of notice. The land will be open to entry at 9 a.m. on August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Chet Grandjean, Taos Resource Area Realty Specialist, 224 Cruz Alta Road, Taos, NM 87571, 505–758–8851.

SUPPLEMENTARY INFORMATION: In 1968, R&PP Patent 30–68–0081 issued to Santa Fe Council of Camp Fire Girls for campgrounds and shelters. In 1985, Tierra del Sol Council of Campfire, Inc. became the successor in interest to said patent. The land was not being used for the purposes conveyed, therefore, Tierra del Sol Council of Campfire, Inc. conveyed said land back to the United States. These public lands which are in Santa Fe County, New Mexico, have been examined and are suitable for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended by the Federal Land Exchange Facilitation Act of August 20, 1988.

Pursuant to the R&PP Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.) and the regulations contained in 43 CFR 2461.5(c)(2), R&PP Classification NMNM 1647 is hereby terminated in its entirety and the segregation for the following described land is hereby terminated:

New Mexico Principal Meridian

T. 15 N., R. 11 E.,
Sec. 32, N½NW¼.
Containing 80.00 acres.

The classification no longer serves a needed purpose as to the land described above and is hereby terminated.

At 9 a.m. on August 14, 1995 the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregation of record, and the requirements of applicable law.

The land has been selected for exchange which is in relation to an ongoing exchange with the Nature Conservancy. The exchange will equalize a prior land exchange.

Dated: June 30, 1995.

Gilbert J. Lucero,

Acting State Director.

[FR Doc. 95–17181 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–FB–P

[NV–930–1430–01; N–57459]

Notice of Realty Action: Non-Competitive Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Non-competitive sale of public lands in Clark County, Nevada.

SUMMARY: The following described public land in Pahrump, Nye County, Nevada has been examined and found suitable for classification for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is Section 203 and Section 209 of Public Law 94–579, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713 and 43 U.S.C. 1719).

Mount Diablo Meridian, Nevada

T. 21 S., R. 54 E.,
Sec. 31, E½NE¼NW¼SE¼.
Containing 5 acres, more or less.

This parcel of land, situated in Pahrump is being offered as a non-competitive FLPMA sale to Mr. Edward E. Wheeler. This land is not required for any federal purposes. The sale is consistent with current Bureau planning for this area and would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 nonreturnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Oil, gas, sodium, potassium and saleable minerals. and will be subject to:

1. An easement for roads, public utilities and flood control purposes in accordance with the transportation plan for Nye County/the City of Pahrump. Upon publication of this notice in the **Federal Register**, the above described land will continue to be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for sales and disposals under the mineral disposal laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

Publication of this notice in the **Federal Register** previously occurred on Tuesday, December 27, 1994, [59 FR 49251] and allowed for the required 45 day comment period. Publication of this notice will not initiate an additional comment period. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA, or other applicable laws.

Dated: June 30, 1995.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 95–17171 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–HC–P

[NM–010–1430–01]

Realty Action on Proposed Land Disposal in Rio Arriba County, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action on Proposed Land Disposal.

SUMMARY: This notice is to advise the public that the Albuquerque District, of the Bureau of Land Management, is proposing to dispose of approximately 54.52 acres of public land near the Village of Dixon within Rio Arriba County, State of New Mexico.

SUPPLEMENTARY INFORMATION: The BLM has determined that the acres of public land described below are suitable for disposal under the Color-of-Title Acts of 1928 (45 Stat. 1069), 1932 (47 State. 53; 43 U.S.C. 178), Sales under Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713 (1976), and the Recreation and Public Purposes Act of 1926, as amended (43 U.S.C. 869 et seq.), and Section 211 of the Federal Land Policy and Management Act of 1976 (FLPMA).

New Mexico Principal Meridian

Dixon III, New Mexico Public Land Disposal Block T. 23 N., R. 10 E.,
Sec. 26: lot 17;
Sec. 27: lots 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 61, 62;
Sec. 34: lots 1, 4, 5;
Sec. 35: lots 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 57, 59.

Comprising approximately 54.52 acres.

Disposal of these lands is consistent with: (1) Taos Resource Management Plan approved in October 1988. (2) Their location as well as the physical characteristics and the private ownership of adjoining lands, make them difficult and uneconomical to manage as public lands, make them difficult and uneconomical to manage as public lands, so disposal would est serve public interest, (3) This Notice of Realty Action will be published once a week for three weeks in a newspaper of general circulation and will be sent to the New Mexico Congressional Delegation and the relevant congressional committees by BLM. The specific parcels of public land will be disposed of using the following ''Tract Disposal Criteria'' in descending order of priority:

1. Color-of-Title. Color-of-Title disposal will be made to any applicant within the disposal area who qualifies under the Color-of-Title Acts.

2. Non-Competitive (Direct) Sale. Public lands within the disposal block will be sold without competition at Fair Market Value to those individuals who occupied the parcels before June 11, 1979 (the date land use plans were approved) but who do not qualify for title under the Color-of-Title Act.

The terms and conditions applicable to the disposal are:

1. The patents will contain a reservation to the United States for ditches and canals.

2. All disposals are for surface estate only. The patents will contain a reservation to the United States for all minerals.

3. Tracts which lie within the 100 year floodplain of the Rio Embudo will be subject to EO 11988 which precludes the seeking of compensation from the United States or its agencies in the event existing or future facilities on those tracts are damaged by flood.

4. All disposal will be made subject to prior existing rights.

Additional information pertaining to this disposal including the environmental documents are available for review at the Taos Resource Area Office, Plaza Montevideo, 224 Cruz Alta Road, Taos, New Mexico 87571, or telephone (505) 758–8851. For a period of 45 days from the date of this notice, interested parties may submit written comments to the Taos Resource Area Manager. Any adverse comments will be evaluated by the New Mexico State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination.

In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 16, 1995.

Sue E. Richardson,

District Manager.

[FR Doc. 95–17184 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–FB–P

[NV–942–05–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION: 1. The supplemental plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on May 31, 1995:

The supplemental plat, showing amended lottings in secs. 1, 2, and 12, Township 22 South, Range 58 East, Mount Diablo Meridian, Nevada was accepted May 24, 1995.

This plat was prepared to meet certain needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on June 8, 1995:

The plat, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 16, T. 1 S., R. 35 E., Mount Diablo Meridian, Nevada, under Group No. 740, was accepted June 1, 1995.

This survey was executed to meet certain needs of the Bureau of Land Management.

3. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on June 15, 1995:

The plat, representing the dependent resurvey of a portion of the subdivisional lines, and a portion of the subdivision of section 22, and the subdivision of the NW¼ of section 22, and an informative traverse of certain right-of-ways in the SE¼ of the NW¼ of section 22, T. 20 S., R. 60 E., Mount Diablo Meridian, Nevada, under Group No. 731, was accepted June 8, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: June 30, 1995.

John S. Parrish,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 95–17135 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–HC–P

Bureau of Reclamation

Trinity River Basin Fish and Wildlife Task Force

AGENCY: Bureau of Reclamation (Reclamation), Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, announcement is made of a meeting of the Trinity River Basin Fish and Wildlife Task Force.

DATES: Wednesday, September 13, 1995, at 8 a.m.

ADDRESSES: The meeting will be at the Victorian Inn, 1709 Main Street, 299 East, Weaverville, California.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Bruss, Trinity River Task Force Secretary, Bureau of Reclamation, MP–153, 2800 Cottage Way, Sacramento CA 95825; Telephone: (916) 979–2482 or TDD (916) 979–2310.

SUPPLEMENTARY INFORMATION: Task Force members will be briefed on a summary of the program, action plan revisions, and progress on the Flow Study Environmental Impact Statement.

The meeting of the Task Force is open to the public. Any member of the public may file a written statement with the Task Force before, during, or after the meeting in person or by mail. To the extent that time permits, the Task Force chairman may allow public presentation of oral statements at the meeting.

Dated: June 23, 1995.

Dan M. Fults,

Regional Director.

[FR Doc. 95–17173 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–94–P

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 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, Washington, D.C. 20530, telephone (202) 395–7340, with copies to Renee Gyles, Office of Policy and Management Improvement, Mail Stop 4013, Minerals Management Service, 1849 C Street, N.W., Washington, D.C. 20240.

Title: MMS' Generic Customer Satisfaction Surveys.

Abstract: Annually, thousands of individuals, Indian Allottees and Tribes, State and local government officials, industry, environmental groups, etc. have contact with the Minerals Management Service by mail, telephone or in person. The collections will obtain information for determining the level of satisfaction with the services provided by MMS to these individuals and organizations and to identify any areas where improvements in providing service could be made.

Bureau Form Number: None.

Frequency: On occasion, annually.

Description of Respondents: Individuals, Indian Allottees and Tribes, State and local governments, businesses and other for-profit organizations, Federal Agencies or employees, non-profit institutions, small businesses and organizations.

Estimated Completion Time: .30 hour.

Annual Responses: 17,000.

Annual Burden Hours: 8,500.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Dated: June 28, 1995.

Hugh Hilliard,

Acting Associate Director for Policy and Management Improvement.

[FR Doc. 95–17174 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Record of Decision on the White-Tailed Deer Management Plan Final Environmental Impact Statement for Gettysburg National Military Park/ Eisenhower National Historic Site, Pennsylvania

AGENCY: National Park Service, Interior.

ACTION: Notice of release.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), and the regulations promulgated by the Council on Environmental Quality in 40 CFR 1505.2, the National Park Service (NPS) has released the Record of Decision (ROD) on the White-tailed Deer Management Plan, Environmental Impact Statement for Gettysburg National Military Park and Eisenhower National Historic Site.

DATES: The Record of Decision was recommended by the Superintendent of Gettysburg National Military Park/ Eisenhower National Historic Site and approved by the Field Director of the Northeast Field Area on June 28, 1995.

ADDRESSES: Inquiries regarding the Environmental Impact Statement or the Record of Decision should be submitted to the Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, PA 17325, telephone (717) 334–1124.

SUPPLEMENTARY INFORMATION:

Introduction

Gettysburg National Military Park and Eisenhower National Historic Site, located in Adams County, Pennsylvania, were established for their historic significance. Gettysburg National Military Park preserves the battlefield at Gettysburg and interprets its significance as one of the most eventful battles of the American Civil War. Eisenhower National Historic Site is adjacent to the battlefield and interprets the life and career of President Dwight D. Eisenhower and the important events that occurred there.

The landscapes of the sites are critical to the interpretation of the events that took place in each park. Management objectives for maintaining landscape components, specifically historic woodlots and cropfields, were developed to enhance visitor understanding of each park's events. Perpetuation of the historic woodlots and the rural agricultural scene, according to the management objectives, is not possible because of deer browsing.

Background

In the late 1970's resource managers at the parks noticed increasing evidence of deer browsing in the historic woodlots. At the same time, permittees that maintain the agricultural fields reported increasing deer browsing on field crops. In 1985, research was begun to document deer browsing impacts to the woodlots and to determine the deer population status, movements, and habitat use. Population surveys commenced in 1987 in the 11 square mile deer study area and have continued to the present. The April mean population estimates have ranged from 721 to 1,441 deer for the study area.

Data from the study showed that the woodlots and cropfields could not be maintained in a way necessary to achieve park management objectives. The high level of deer browsing was preventing a sufficient number of tree seedlings from becoming established, which is needed to perpetuate the historic woodlots. The agricultural program was unable to grow historical crops to maturity in Eisenhower NHS and the southern part of Gettysburg NMP due to deer browsing.

In 1992, the parks proposed to manage the level of deer browsing in the parks so the landscape management objectives could be met. The estimated number of deer in the study area that will have a level of deer browsing that allows the parks to meet their landscape management objectives is approximately 80 deer (see Appendix C and Appendix E of the EIS). The 1995 population survey estimated 1,148 deer in the study area.

Reasonable options for controlling the level of deer browsing were investigated. The decision was made to complete an environmental impact statement (EIS) in order to reach a decision on the best deer management alternative that would enable the parks to meet their management objectives. The EIS process was begun on August 21, 1992, with the publication in the **Federal Register** of a Notice of Intent to prepare a draft EIS. A public information meeting and a scoping meeting were held to identify issues and concerns related to the deer management proposal. The Notice of Availability of the draft EIS was published in the **Federal Register** on November 14, 1994. The comment period on the draft EIS ended February 10, 1995. Substantive comments were responded to in the final EIS which was released May 26, 1995. The Notice of Availability of the final EIS appeared in the May 16, 1995, **Federal Register.**

The Selected Action

The National Park Service has selected a combination approach (Alternative 5) to reduce the deer population and thus the level of deer browsing in the parks. Alternative 5 is the combination of Alternative 2B and Alternative 4. Deer will be shot in the parks by authorized personnel (Alternative 2B) and hunted outside the parks by licensed hunters in cooperation with the Pennsylvania Game Commission and private landowners (Alternative 4). The two methods will be repeated, as needed, annually from October through April. The deer population will be reduced to a predetermined population density so the parks can meet their landscape management objectives.

Basis for Decision

The selected action addresses the impacts the deer population has on the historic woodlots and cropfields, which are components of the cultural landscapes of the parks. Without the proposed action, the NPS would have increasing difficulty in maintaining the essential landscape features necessary for understanding the historic occurrences of each park. This action should also reduce deer browsing damage to private property near the parks.

Shooting deer inside and outside of the parks is the most effective and efficient method to reduce and maintain the deer population at a density which will have acceptable impacts to park woodlots and cropfields. With increased public hunting outside the parks and no shooting in the parks, there would be limited effect on deer density in the parks (see p.65 of the EIS). Alternately, shooting deer only in the parks, while hunting on private land remained limited, would diminish the effectiveness of reducing deer density in the parks. An effective combination approach will have fewer impacts to visitor use and cost less than using Alternative 2B alone (see p. 66 of the EIS).

Encouraging public hunting outside the parks is the preferred method, according to NPS policy, for controlling wildlife populations in parks. In this case, however, shooting inside the parks will occur during the same period. This was determined to be necessary to achieve the density goal because it removes the parks as a place where deer seek refuge. Hunting is not permitted in either park, because it is not authorized by law (see p. 103 of the EIS). Therefore, only NPS authorized individuals will be allowed to shoot deer in the parks. The NPS will seek to coordinate deer management activities near the parks with nearby private landowners and the Pennsylvania Game Commission. Private landowners that are willing can increase hunting opportunities by allowing or increasing hunter access to their land during the deer hunting seasons. The Pennsylvania Game Commission, which establishes the length of the hunting seasons and harvest limits in the state, may play a crucial role. If the effort to increase public access does not result in sufficient deer being killed, the NPS will seek cooperation from the Pennsylvania Game Commission to increase the number of deer that could be killed near the parks.

Measures To Minimize Impacts and Address Public Concerns

The selected alternative incorporates a variety of measures to minimize the adverse environmental, social, and economic impacts as described in the final EIS.

Visitor safety will be the first priority before and during any management action. Shooting in the parks will occur only in areas where and when public safety and resource protection is assured. Deer will be shot in the parks during both day and nightime hours. To ensure public safety, night shooting will be conducted only at bait stations which will also improve the effectiveness of the reduction program. Prior to each annual reduction period, public notification will be provided as to the time period when shooting may occur and the areas where access will be restricted or prohibited. This notification will lessen inconvenience to visitors and provide for public safety. Only NPS authorized individuals highly skilled and trained in the use of firearms and public safety will shoot deer in the parks. This requirement will result in a humane means of direct reduction and reduce the risk of damage to historical resources. The venison will be donated to food service organizations for distribution to the needy. The hides, if removed, and entrails will be disposed of consistent with federal and state laws. In the short term, a large number of deer will be killed annually to reach the density goal. When the population is reduced to the density goal, fewer deer will need to be killed annually to maintain the population at that level. As the management action progresses, the remaining deer population will be monitored by park personnel. Monitoring information on the deer, woodlots and cropfields, will guide the ongoing deer population maintenance program.

Some individuals have expressed concerns during the scoping and comment periods regarding the alternatives for managing the deer population in the parks. Some of the expressed concerns relating to the selected alternative included: Killing deer on a historic battlefield; that animals will lose their life; and that NPS personnel, not hunters, will kill deer in the parks. The NPS acknowledges the feelings and concerns of these individuals. Keeping in mind the purpose for which each park was established, however, this action was chosen to maintain the historic landscapes of the two parks and aid visitor understanding of the historic events, while ensuring public safety.

Other Alternatives Considered

Nine alternatives for controlling the deer browsing in the parks were dismissed from further analysis for reasons explained in the EIS. The rejected alternatives included: releasing predators; using deterrents, repellents, or poison; hunting in the parks; fencing; converting cropfields to hay and grass; selling the deer; and allowing private landowners to kill as many deer as they wished on their property and sell the carcasses for profit. Six alternatives, including the proposed action, were considered in the EIS. Alternative 1, No Action, considered taking no management action to control the effects of deer browsing in the parks. The NPS statutory mission is to preserve parks for the enjoyment of present and future generations. The historic woodlots could not be perpetuated for future generations under the No Action Alternative because deer browsing would continue to prevent seedlings from becoming established. In addition, the parks could not meet their landscape management objectives for cropfields with the No Action Alternative.

Alternative 2A, Capture and Transfer, discussed deer population management through capturing and relocating the deer. Live trapping for relocation, according to NPS policy, is the preferred method for controlling wildlife populations within parks. Suitable relocation sites outside the parks, however, have not been identified (see p. 61 of the EIS). Deer-related problems are amplified at the release site if deer are transferred to an unsuitable location. The Pennsylvania Game Commission will not support requests for permits to transfer any trapped deer (see Pennsylvania Game Commission comment letter p. 105–1 in final EIS). Transferring deer also requires the long-term commitment of a large amount of resources.

Alternative 3, Reproductive Intervention, explored surgical sterilization and contraception of deer. This alternative was a component of the preferred alternative in the draft EIS. The use of contraceptives on deer, which are considered food-producing animals, must be approved by the Food and Drug Administration. Contraceptive vaccines and steroids to control deer reproduction for population management have not been approved for use at this time. In addition, surgical sterilization was considered impractical because of the large number of deer in the parks. This alternative was, therefore, rejected and removed from the preferred alternative in the final EIS.

Alternative 2B, Direct Reduction, is management of the deer population in the parks through shooting by NPS personnel and authorized agents. Alternative 4, Cooperative Management, is the combined effort of the NPS, Pennsylvania Game Commission, and nearby private landowners to increase public hunting opportunities outside the parks. These two alternatives comprise the selected alternative, Alternative 5, Combined Management.

Environmentally Preferred Alternative

The environmentally preferred alternative is the one that causes the least damage to the biological and physical environment. It is the alternative or alternatives which best protect, preserve, and enhance the historic, cultural, and natural resources in the area where the proposed action is to take place.

Alternative 5, Combined Management, is the selected action and the environmentally preferred alternative. The combination of shooting deer inside and outside the parks will be the most successful at reducing the number of deer in the parks. This action will reduce the park deer population so park management objectives may be achieved. The historic and cultural resources are particularly important at these parks. The reduced deer density in the parks will make it possible for the historic woodlots to regenerate and the agricultural programs at the battlefield and the Eisenhower Farm to maintain the cropfield component of the cultural landscapes. The reduced level of deer browsing will result in an increase in abundance and diversity of herbaceous and woody vegetation. This reduction, not elimination, of the deer population in the parks will enhance the protection and preservation of the historic, cultural, and other natural resources of each park.

Capture and transfer was initially considered as another environmentally preferred alternative. Suitable relocation sites and transfer permits, however, are not available. Even if relocation sites could be found, the ability of capture and transfer to control deer populations on a long-term basis has not been proven for large populations (see p. 61 of the EIS). This alternative, therefore, was not selected as an environmentally preferred alternative.

Conclusion

The above factors and considerations justify selection of the preferred alternative as identified and detailed in the final EIS.

In July, park personnel will begin dialogue with local private landowners in an effort to increase hunting opportunities on private lands near the parks. An action plan will be written for the deer reduction efforts in the parks. Killing deer to reduce and maintain the population at a level where park landscape management objectives are met is proposed to begin in October, 1995.

Dated: July 5, 1995.

Warren D. Beach,

Northeast Field Area, Acting Associate Field Director.

[FR Doc. 95–17226 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–70–M

Subsistence Resource Commission Meeting

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order.
(2) Roll call.
(3) Approval of summary of minutes.
(4) Review agenda.
(5) Superintendent's introductions and review of the SRC's function and purpose.
(6) Superintendent's management/research reports.
(7) Public and agency comments.
(8) Old business:
  a. Correspondence.
  b. Federal Subsistence Program update.
  c. Regions 6 and 10 boundary adjustments.
  d. NPS firearms/trapping regulations.
  e. Hunting Plan Recommendation #11.
(9) New business:

a. Harvest monitoring strategies.
b. Hunting plan work session.
c. Recommendations to Region 10 Council on vacant SRC seat.
(10) Set time and place of next SRC meeting.
(11) Adjournment.

DATES: The meeting will be held Tuesday and Wednesday, July 18 and 19, 1995. The meeting will begin at 9 a.m. and end at 5 p.m. on Tuesday and begin at 8:30 a.m. and end at 3 p.m. on Wednesday.

LOCATION: The meeting will be held at the Noel Wein Public Library in Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Acting Superintendent, Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Acting Field Director.

[FR Doc. 95–17198 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation; Agency Report Form Under OMB Review

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit 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 such a submission. The proposed form under review is summarized below.

DATES: Comments must be received on or before July 27, 1995. If you anticipate commenting on the form but find that the time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue, N.W., Washington, D.C. 20527; 202/336–8565.

OMB Reviewer: Jeff Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 3201, Washington, D.C. 20503; 202/395–7340.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Revision.

Title: Request for Registration for Political Risk Investment Insurance.

Form Number: OPIC 50.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institutions.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. Companies investing overseas.

Reporting Hours: ½ hour per project.

Number of Responses: 850 per year.

Federal Cost: $1060 per year.

Authority for Information Collection: Section 231 and 234 (a) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): OPIC 50 is submitted by eligible investors to register their international investments, and, ultimately, to seek OPIC insurance. By submitting form 50 to OPIC prior to making an irrevocable commitment, the incentive effect of OPIC is demonstrated.

Dated: July 5, 1995.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 95–17137 Filed 7–12–95; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

Notice of Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: United States International Trade Commission.

ACTION: Appointment of individuals to serve as members of Performance Review Boards.

EFFECTIVE: July 3, 1995.

FOR FURTHER INFORMATION CONTACT: Micheal J. Hillier, Director of Personnel, U.S. International Trade Commission (202) 205–2651.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB):

Chairman of PRB—Vice Chairman Janet A. Nuzum
Member—Commissioner David B. Rohr
Member—Commissioner Don E. Newquist
Member—Commissioner Carol T. Crawford
Member Commissioner Lynn M. Bragg
Member—Lyn M. Schlitt
Member—Robert A. Rogowsky
Member—Lynn I. Levine
Member—Eugene A. Rosengarden
Member—Vern Simpson
Member—Lynn Featherstone

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: July 7, 1995.

By order of the Chairman.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–17143 Filed 7–12–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *ASARCO, Incorporated*, Civil Action No. 8:CV94–188, was lodged on June 28, 1995 with the United States District Court for the District of Nebraska. The Consent Decree resolves civil claims against ASARCO for unpermitted discharges of wastewater containing lead and other pollutants from the Omaha, Nebraska lead refinery in violation of the Clean Water Act. Under the proposed Consent Decree, Settling Defendants will pay a civil penalty of $3.25 million, will implement two supplemental environmental projects at a cost of $1 million, and will perform interim and final injunctive measures to control pollutant discharges.

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 of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20044. Comments should refer to *United States of America* v. *ASARCO, Incorporated*, DOJ Ref. #90–5–1–1–4113.

The proposed consent decree may be examined at the office of the United States Attorney, Zorinsky Federal Building, 214 N. 17th Street, Omaha, Nebraska; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas; and at the Consent Decree Library, 1120 G Street, N.W., 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.

In requesting a copy, please enclose a check in the amount of $8.50 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.''

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–17136 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 C.F.R. 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Lacks Industries, Inc.*, Case No. G87–413CA, was lodged on with the United States District Court for the Western District of Michigan on June 29, 1995. The proposed consent decree resolves civil claims brought against Lacks Industries, Inc. (''Lacks'') under the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq*., relating to a Saranac, Michigan facility owned and operated by Lacks. The decree requires Lacks: (1) to cease treatment or disposal of additional hazardous waste at its Saranac facility except in accordance with applicable standards for hazardous waste generators and treatment, storage or disposal facilities; (2) to close hazardous waste management units at its Saranac facility in accordance with a closure plan approved by Michigan Department of Natural Resources (''MDNR''), and to provide post-closure care if waste residues are not completely removed or decontaminated as part of the closure process; (3) to provide financial assurances for closure and post-closure care of the Saranac facility; (4) to comply with liability coverage requirements for sudden and non-sudden occurences at the Saranac facility, in accordance with specified regulations; (5) to install and maintain a groundwater monitoring system at the Saranac facility and monitor groundwater in accordance with a groundwater quality assessment plan approved by MDNR and other applicable requirements; (6) to initiate corrective action at the Saranac facility by performing a RCRA Facility Investigation and Corrective Measures Study in accordance with work plans approved by U.S. EPA; and (7) to pay a $250,000 civil penalty previously assessed by the court in the above-referenced civil action against Lacks. The consent decree specifically reserves the right of the United States to assert additional claims to require Lacks to perform any corrective action measures which U.S. EPA selects following completion of the RCRA Facility Investigation and Corrective Measures Study.

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. *Lacks Industries, Inc.*, Case No. G87–413CA and the Department of Justice Reference No. 90–7–1–360.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Michigan, 399 Federal Building, 110 Michigan St. NW, Grand Rapids, Michigan, and at U.S. EPA Region 5, Office of Regional Counsel, 200 West Adams, Chicago, Illinois; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 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, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $17.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–17177 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

In accordance with Departmental policy, 28 C.F.R. 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed consent decree in *United States* v. *Monsanto Company, et al.*, Civil Action No. 3:92–0961–19, was lodged on July 3, 1995, with the United States District Court for the District of South Carolina. This agreement resolves a judicial enforcement action brought by the United States against the defendants pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, for the recovery of response costs incurred and to be incurred by the United States in connection with the Dixiana Superfund Site (''Site'') located in Lexington County, South Carolina.

Under the proposed Consent Decree, the United States has obtained 84.5 percent of its past response costs, including prejudgment interest, totaling $4,132,837, and has obtained a commitment for payment of all EPA's future oversight costs. The Settling Defendants will also assume full responsibility for upgrading and completing the remedy initiated at the Site by EPA.

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. *Monsanto Company, et al.*, DOJ Ref. #90–11–3–336.

The proposed consent decree may be examined at the office of the United States Attorney, 1st Union Building, 1441 Main Street, Suite 500, Columbia, South Carolina; the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia; and the Consent Decree Library, 1120 G. Street, N.W., 4th Floor, Washington, D.C. 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, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $20.25 (25 cents per page reproduction

costs), payable to the Consent Decree Library.

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 95–17176 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 18, 1995, Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, 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
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590)	I
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II
Oxymorphone (9652)	II

The firm plans to manufacture small quantities of these controlled substances for reference standards.

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 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 14, 1995.

Dated: July 5, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–17118 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; 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 § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 18, 1995, Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Heroin (9200)	I
Morphine (9300)	II

The firm plans to import these controlled substances for the manufacture of reference standards.

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 in 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 14, 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: July 5, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–17119 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated May 18, 1995, and published in the **Federal Register** on May 25, 1995 (60 FR 27788), Calbiochem-Novabiochem Corporation, 10394 Pacific Center Court, Attn: Receiving Inspector, San Diego, California 92121–4340, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Amphetamine (1100)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II

A registered manufacturer did file a written request for a hearing with respect to Amphetamine. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firms is granted registration as an importer of the basic classes of controlled substances listed above with the exception of Amphetamine (1100).

Dated: July 5, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–17120 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated May 17, 1995, and published in the **Federal Register** on May 25, 1995, (60 FR 27789), Research Biochemicals, Limited Partnership, One Strathmore Road, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Bufotenine (7433)	I
Dimethyltryptamine (7435)	I
Etorphine (except HCl) (9056)	I
Methylphenidate (1724)	II
Etorphine Hydrochloride (9059)	II
Diphenoxylate (9170)	II
Metazocine (9240)	II
Methadone (9250)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 5, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–17121 Filed 7–12–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Commission on Family and Medical Leave; Notice of Public Hearing

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to Title III of the Family Medical Leave Act (FMLA) of 1993 (Pub. L. 103–3) this is to announce a hearing on the experience of family and temporary medical leave policies for the Commission which is to take place on Friday, August 4, 1995. The purpose of the Commission is to, among other things, study the effects of existing and proposed policies relating to family and medical leave. The Commission has the practical task of conducting a comprehensive study of: (a) Existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under the act; (b) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees; (c) possible differences in costs, benefits, impact on productivity, job creation and business growth of such policies on employers based on business type and size; (d) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act; (e) alternative and equivalent State enforcement of Title I with respect to employees described in section 108(a); (f) methods used by employers to reduce administrative costs of implementing family and medical leave policies; (g) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and (h) the impact on employers and employees of policies that provided temporary wage replacement during periods of family and medical leave.

TIME AND PLACE: The hearing will be held on Friday, August 4, 1995, from 9 am until 12 pm, at the Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, in the Departmental Auditorium.

AGENDA: The agenda for the hearing is as follows: Three panels of witnesses will give testimony on their experiences with family and temporary medical leave policies.

STATEMENTS: Interested persons may submit, in writing, data, information or views on employer or employee experiences with family and temporary medical leave policies prior to or at the hearing.

PUBLIC PARTICIPATION: The hearing will be open to the public. Seating will be available on a first-come, first-served basis. Seats will be reserved for the media. Persons with disabilities should contact the Commission no later than July 28, 1995, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Susan King, Executive Director, Commission on Leave, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–3002, Washington, DC 20210, telephone: (202) 219–4526, Ext. 102.

Signed at Washington, DC, this 6th day of July, 1995.

Susan King,

Executive Director Commission on Leave.

[FR Doc. 95–17206 Filed 7–12–95; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–053]

NASA Advisory Council (NAC), NAC Task Force on the Shuttle-Mir Rendezvous and Docking Missions; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 60 FR 33438–33439, notice number 95–047, June 28, 1995.

PREVIOUSLY ANNOUNCED DATES AND ADDRESSES OF MEETING: July 19, 1995, 9 a.m. to 5 p.m., Room #966, Building 1, Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, 2101 NASA Road 1, Houston, Texas 77058–3696.

CHANGES IN THE MEETING: Meeting times changed to 9 a.m. to 2 p.m. on July 19, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Kirkham, Code MOC, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1692.

Dated: July 6, 1995.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 95–17122 Filed 7–12–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the Unites States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before August 28, 1995. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture, Food and Consumer Service (N1–462–95–3). Facilitative records relating to applied nutrition projects.
2. Department of Agriculture, Food and Consumer Service (N1–462–95–4). Electronic systems used to support and maintain food assistance programs.
3. Department of Commerce, Census Bureau (N1–29–94–1). Comprehensive records schedule for the Foreign Trade Division.
4. Department of Education (N1–12–95–1). Administrative reports of the National Advisory Council on Equality of Educational Opportunity.
5. Department of Health and Human Services, Administration for Children and Families (N1–102–93–1). Program evaluation working files of the Office of Child Development, 1971–74.
6. Department of Housing and Urban Development (N1–207–95–6). Audiovisual records maintained by the Office of Affirmative Action and Equal Employment Opportunity.
7. Department of Housing and Urban Development (N1–207–95–7). Single Family Home Equity Mortgage Conversions.
8. Department of Labor, Women's Bureau (N1–86–95–1). Working women's survey administrative subject files, questionnaires and working papers.
9. Department of Labor (N1–174–95–2). Copies of news releases, still pictures, and audiotapes maintained by the Historian's Office.
10. Department of Transportation, Federal Aviation Administration (N1–237–95–3). Administrator's Hotline Files.
11. Tennessee Valley Authority (N1–142–95–4). Subject files created and maintained by the Business Operations organization, Resource Group.
12. Tennessee Valley Authority (N1–142–94–7). Employee opinion surveys for lower-level administrative units.
13. Tennessee Valley Authority (N1–142–95–9). Configuration control drawings for nuclear generating plants that do not document modifications made in response to a potentially catastrophic event.
14. Tennessee Valley Authority (N1–142–92–10). Original computations and supporting data used to measure water flow in the Tennessee Valley reservoir system.

Dated: June 28, 1995.

John W. Carlin,

Archivist of the United States.

[FR Doc. 95–17187 Filed 7–12–95; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Undergraduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Date and Time: July 31, 1995 7:30 p.m. to 9 p.m., August 1, 1995; 8:30 a.m. to 5 p.m., August 2, 1995; 8:30 a.m. to 5 p.m., August 3, 1995; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Terry Woodin, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1665.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the NSF Collaboratives for Excellence in Teacher Preparation (CETP) Program Panel Meeting.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 10, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–17225 Filed 7–12–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Northern States Power Co., Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northern States Power Company (the licensee) to withdraw its January 26, 1994 application for proposed amendment to Facility Operating License No. DPR–22 for the Monticello Nuclear Generating Plant, located in Monticello, Minnesota.

The proposed amendment would have revised the requirements for the main steam isolation valve leak rate test in the Technical Specifications to increase the test pressure and associated allowable leakage.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 28, 1994 (59 FR 22010). However, by letter dated May 15, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 26, 1995, and the licensee's letter dated May 15, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 5th day of July 1995.

For the Nuclear Regulatory Commission.

T.J. Kim,

Project Manager, Project Directorate III–1, Division of Reactor Projects–III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–17199 Filed 7–12–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35–44; File No. SR–Amex–95–26]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options and Long-Term Options on the Morgan Stanley High Technology 35 Index and Long-Term Options on a Reduced-Value Morgan Stanley High Technology 35 Index

July 7, 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 June 29, 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, II, and III below, which Items have been prepared by the Amex. 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 Exchange proposes to trade options on the Morgan Stanley High Technology 35 Index (''Tech 35 Index'' or ''Index''), a new stock index developed by Morgan Stanley & Co. Incorporated (''Morgan Stanley'') that is comprised of technology sector stocks that trade on the Amex or the New York Stock Exchange, Inc. (''NYSE''), or that are National Market securities traded through Nasdaq. In addition, the Amex proposes to amend Rule 902C(d) to include the Tech 35 Index in the disclaimer provisions of the rule. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex 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 Amex 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 the Statutory Basis for, the Proposed Rule Change

The Amex is proposing to trade standardized index options on the Index. The Index is an equal-dollar weighted index developed by Morgan Stanley, representing a portfolio of large, actively traded technology stocks. The Index includes securities of companies involved in the following industries: Computer services, design software, server software, PC software and new media, networking and telecommunications equipment, server hardware, PC hardware and peripherals, specialized systems, and semiconductors.[1]

Eligibility Standards for Index Components

The Amex represents that the Tech 35 Index conforms to Exchange Rule 901C which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. In addition, Morgan Stanley has included in the Index only those stocks that meet the following standards: (1) A minimum market capitalization of $75 million; (2) average monthly trading volume of at least one million shares during the preceding six months; (3) each component security must be traded on the Amex or the NYSE, or must be a National Market security traded through Nasdaq; and (4) upon annual rebalancing, at least 90% of the Index's numerical value and at least 80% of the total number of component securities must meet the then current criteria for standardized options trading set forth in Exchange Rule 915.[2] Also, because the Index is equal-dollar weighted, no component security will represent more than 25% of the weight of the Index, nor will the five highest weighted component securities in the Index, in the aggregate, account for more than 60% of the weight of the Index at each annual rebalancing. Specifically, at each rebalancing, each component security will account for approximately 2.86% of the weight of the Index.

Index Calculation

The Index is calculated using an ''equal-dollar weighting'' methodology designed to ensure that each of the component securities is represented in an approximately ''equal'' dollar amount in the Index at each rebalancing. The Exchange believes that this method of calculation is important because even among the largest companies in the technology sector there is great disparity in market value. For example, although the stocks included in the Index represent many of the highly capitalized companies in the technology sector, the five most highly capitalized companies in the Index currently represent approximately 60% of the aggregate market value of the Index. It has been the Exchange's experience that options on market value weighted indexes dominated by relatively few component stocks are less useful to investors because the index will tend to represent those few companies and not the targeted industry as a whole.

The following is a description of how the equal-dollar weighting calculating method works. As of the market close on December 16, 1994, a portfolio of technology stocks was established representing an investment of $300,000 in the stock (rounded to the nearest whole share) of each of the securities represented in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 200.00 at the close of trading on December 16, 1994. Annually thereafter, following the close of trading on the third Friday of December, the Index will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in approximately ''equal'' dollar amounts. If necessary, a divisor adjustment is made at the rebalancing to ensure continuity of the Index's value. The newly adjusted Index becomes the basis for the Index's value on the first trading day following the annual adjustment.

As noted above, the number of shares of each component stock in the Index remains fixed between annual reviews except in the event of certain types of corporate actions such as the payment of a dividend (other than an ordinary cash dividend), stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the Index may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level at which it was represented immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining Index components will be calculated and that amount invested in the stock of the new component, rounded to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure continuity in the value of the Index.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

Maintenance of the Index

The Tech 35 Index will be calculated and maintained by the Amex in consultation with Morgan Stanley who may, from time to time, suggest changes in the technology industry categories represented in the Index or changes in the number of component stocks in an industry category to properly reflect the changing conditions in the technology sector. In addition, the Amex will consider replacing component securities that fail to meet the following maintenance criteria on quarterly review: (1) A minimum market capitalization of $75 million; (2) average monthly trading volume in the component security of at least 500,000 shares during the preceding six months; and (3) a share price greater than $5.00.

At the beginning of each calendar quarter, Morgan Stanley will provide the Amex with a current list of replacement stocks on which to draw in the event that a component in the Index must be replaced due to merger, takeover, or other similar event. The stocks on the replacement list will be selected and ranked by Morgan Stanley based on a number of criteria, including conformity to the Exchange Rules 915 and 916, which set forth the criteria for the initial and continued listing of standardized options on equity securities, trading liquidity, market capitalization, ability to borrow shares, and share price. The replacement stocks will be categorized by industry within the technology sector and ranked within

[1] The specific components of the Index are: Apple Computer, Inc.; Autodesk, Inc.; Adobe Systems Incorporated; Applied Materials, Inc.; America Online, Inc.; Automatic Data Processing, Inc.; Bay Networks, Inc.; Broderbund Software, Inc.; Computer Associates International Inc.; 3 Com Corporation; Compaq Computer Corporation; Cabletron Systems, Inc.; Computer Sciences Corporation; Cisco Systems, Inc.; EMC Corporation; Electronic Arts Inc.; First Data Corporation; General Motors (Class E); Hewlett-Packard Company; IBM; Intel Corporation; Intuit Inc.; KLA Instruments Corporation; Linear Technology Corporation; Motorola, Inc.; Microsoft Corporation; Novell, Inc.; Oracle Systems Corporation; Parametric Technology Corporation; Seagate Technology, Inc.; Silicon Graphics, Inc.; Synopsys, Inc.; Tellabs Inc.; Texas Instruments, Incorporated; and Xilinx, Inc.

[2] As of June 15, 1995, all of the Index component securities had standardized options trading on them.

their category based on the aforementioned criteria. The replacement stock for a security being removed from the Index will be selected by the Amex from the replacement list based on industry category and liquidity.

In addition, Morgan Stanley will advise the Exchange regarding the handling of unusual corporate actions which may arise from time to time. Routine corporate actions (*e.g.*, stock splits, routine spinoffs, etc.) which require straightforward index divisor adjustments will be handled by Exchange staff without consultation with Morgan Stanley. All stock replacements and unusual divisor adjustments caused by the occurrence of extraordinary events such as dissolution, merger, bankruptcy, non-routine spin-offs, or extraordinary dividends will be made by Exchange staff in consultation with Morgan Stanley. All stock replacements and the handling of non-routine corporate actions will be announced at least ten business days in advance of such effective change, whenever practicable. As with all options currently trading on the Amex, the Exchange will make this information available to the public through the dissemination of an information circular.

Expiration and Settlement

The proposed options on the Index are European-style,[3] and cash-settled. The Exchange's standard option trading hours (9:30 a.m. to 4:10 p.m., New York time) will apply to Index options. The options on the Index will expire on the Saturday following the third Friday of the expiration month (''Expiration Friday''). The last trading day in an expiring Index option series will normally be the second to last business day preceding the Saturday following Expiration Friday (normally a Thursday). Trading in expiring Index options will cease at the close of trading on the last trading day.

The Exchange plans to list Index options series with expirations in the three near-term calendar months and in two additional calendar months in the January cycle. In addition, longer term option series having up to thirty-six months to expiration may be treaded. In lieu of such long-term options based on the full-value of the Index, the Exchange may instead list long-term, reduced-value put and call options based on one-tenth (1/10th) of the Index's full value. In either event, the interval between expiration months for either a full-value or reduced-value long-term Index option will not be less than six months. The trading of any long-term Index options will be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements, and floor trading procedures. Position limits on reduced-value long-term Index options will be equivalent to the position limits for regular (full-value) Index options and will be aggregated with such options. For example, if the position limit for the full-value options on the Index is 10,500 contracts on the same side of the market, then the position limit for the reduced-value options will be 105,000 contracts on the same side of the market. The Exchange expects that the review required by Rule 904C(c) will result in a position limit of 10,500 contracts with respect to options based on the full-value of the Index.

The exercise settlement value for all of the expiring Index options will be calculated based upon the primary exchange regular way opening sale prices for the component stocks. In the case of securities traded through the Nasdaq, the first reported sale price will be used. If any component stock does not open for trading on its primary market on the last day before expiration, then the prior day's last sale price on that market will be used in the exercise settlement value calculation.

Exchange Rules Applicable to Stock Index Options

Amex Rules 900C through 980C will apply to the trading of option contracts based on the Index. These Rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. The Index is deemed to be a Stock Index Option under Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1). With respect to Rule 903C(b), the Exchange proposes to list near-the-money (*i.e.*, strike prices within ten points above or below the current index value) option series on the Index at 2½ intervals when the value of the Index is below 200 points.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–26 and should be submitted by August 3, 1995.

[3] European-style options may only be exercised during a specified time period immediately prior to expiration.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–17203 Filed 7–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35941; File No. SR–OCC–95–06]

Self-Regulatory Organizations; the Options Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Monthly Fee for the Use of a New Telecommunications Platform

July 6, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] (''Act''), notice is hereby given that on May 23, 1995, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. 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

OCC proposes to charge a monthly fee to OCC members using the Transmission Control Program/Interconnect Protocol (''TCP/IP''), a new telecommunications platform.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish a monthly fee to be charged to OCC members using the new TCP/IP telecommunications platform. OCC proposes to provide the TCP/IP platform to facilitate the transmission of data between OCC and its members that implement systems based upon client server technology.[3] OCC proposes to charge a fee of $495.00 per month for the new telecommunications platform. The fee is based upon OCC's costs of providing the new platform.

OCC believes the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder because the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among OCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) and (iii) [4] of the Act and pursuant to Rule 19b–4(e) (2) and (4) [5] promulgated thereunder because the proposal effects a change in an existing service of OCC that does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and does not significantly affect the respective rights or obligations of OCC or persons using the service and establishes or changes a due, fee or other charge imposed by OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–95–06 and should be submitted by August 3, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–17205 Filed 7–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35933; File No. SR–PHLX–95–48]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Proposing to Extend its OTC/UTP Pilot Program

July 3, 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 27, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items

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[4] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] The platform will not provide new information to those members using TCP/IP. Rather, it simply will provide OCC with a faster means to disseminate information, such as risk-based hair-cut information, data service and price information, clearing member reports, and series file information, to its members. Telephone conversation between Jean M. Cawley, Special Counsel, OCC, and Cheryl R. Oler, Staff Attorney, Division of Market Regulation, Commission (June 20, 1995).

[4] 15 U.S.C. 78s(b)(3)(A) (ii) and (iii) (1988).

[5] 17 CFR 240.19b–4(e) (2) and (4) (1994).

[6] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

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 and simultaneously is approving the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to extend the effectiveness of the pilot program and its accompanying rules regarding the trading of Nasdaq/National Market (''Nasdaq/NMS'') securities on the Exchange pursuant to unlisted trading privileges (''Phlx OTC/UTP Pilot Program'') until August 12, 1995, which is when the effectiveness of the joint transaction reporting plan (''Joint OTC/UTP Plan'' or ''Plan'') for OTC/UTP transactions is scheduled to expire.

The Exchange requests the Commission to 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 in the **Federal Register**. Due to the non-controversial nature of the Phlx OTC/UTP Pilot Program, coupled with its previously scheduled expiration date of June 30, 1995, the Phlx respectfully requests accelerated approval of this filing.

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

In 1985, the Commission published its policy to allow the extension of unlisted trading privileges (''UTP'') by national securities exchanges in certain over-the-counter (''OTC'') securities, provided that certain terms and conditions are satisfied. On June 26, 1990, the Commission approved the Joint OTC/UTP Plan, submitted by the National Association of Securities Dealers, Inc. (''NASD''), the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange (''MSE,'' currently operating as the Chicago Stock Exchange, or ''Chx''), and the Phlx.[3] The Joint OTC/UTP Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NMS securities traded on exchanges and by NASD market makers.

The Phlx files the current proposed rule change to continue the effectiveness of the Phlx OTC/UTP Pilot Program that provides for trading of Nasdaq/NMS securities on the Exchange pursuant to UTP. Although the Chx had been trading Nasdaq/NMS securities since 1987, the Phlx obtained temporary approval of its rules to facilitate trading Nasdaq/NMS securities in late 1992,[4] and began trading the securities in February 1993. The Phlx operated the program without any adverse consequences or developments which would have had a negative impact upon the program.

Since April 1994, the Phlx has temporarily suspended making markets in OTC/UTP securities. However, the Phlx desires to keep the program in place for future use once other parts of the Joint OTC/UTP Plan are finalized between the NASD and other participants in the Plan. Therefore, the Phlx seeks an extension of the pilot program to further develop the OTC/UTP program.

2. Statutory Basis

This proposal is consistent with the Section 6(b)(5) of the Act and the rules and regulations promulgated thereunder. Specifically, the proposal is calculated to promote just and equitable principles of trade and to protect investors and the public interest. Due to the non-controversial nature of the Phlx OTC/UTP Pilot Program, coupled with the previously scheduled expiration of the Phlx's OTC/UTP privileges, the Phlx requests accelerated approval of this filing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will be a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent American Stock 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–95–48 and should be submitted by August 3, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission believes that the Phlx's proposal to extend the effectiveness of the Phlx OTC/UTP Pilot Program and accompanying rules with respect to UTP in OTC securities is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] Specifically, the Commission believes that the proposed rule change is consistent with Sections 6(b)(5), 11A and 12(f) of the Act.[6]

[3] See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917. The Commission has approved two extensions of the effectiveness of the Joint OTC/UTP Plan. See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 (order approving Amendment No. 1 to File No. S7–24–89), and Securities Exchange Act Release No. 35221 (January 11, 1995), 60 FR 3886 (order approving Amendment No. 2 to File No. S7–24–89, thereby extending the effectiveness of the Joint OTC/UTP Plan through August 12, 1995).

[4] See Securities Exchange Act Release No. 31672 (December 30, 1992), 58 FR 3054 (order approving File No. SR–PHLX–92–04). The effectiveness of the Phlx OTC/UTP Pilot Program has been extended twice, most recently through June 30, 1995. See Securities Exchange Act Release No. 35191 (January 12, 1995), 60 FR 3017.

[5] For a more detailed discussion of the Commission's findings with respect to the Phlx OTC/UTP Pilot Program and its consistency with the Act, see Securities Exchange Act Release No. 31672, *id*.

[6] 15 U.S.C. 78f(b)(5), 78k–1 (1988), and 78*l*(f) (1988) (as amended October 22, 1994). Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to remove impediments

Continued

In 1985, the Commission published its policy to extend UTP to national securities exchanges in certain OTC securities provided certain terms and conditions are satisfied.[7] The Commission's policy stated that UTP approval would be conditioned, in part, on the approval of a plan to consolidate and disseminate exchange and OTC quotation data and transaction data upon which UTP is granted. As noted above, in 1990, the Commission approved the Plan which provides for the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NMS securities listed on an exchange or traded on an exchange pursuant to a grant UTP.[8] Transactions in securities pursuant to the Plan are and will continue to be reported in the consolidated transaction reporting system established under the Plan.

The Commission has emphasized that Phlx specialists trading Nasdaq/NMS securities pursuant to the grant of UTP are subject to Plan requirements as well as the Phlx OTC/UTP Pilot Program and Phlx By-Laws and Rules, in general.[9] Moreover, the Commission has stated its intent to monitor any potential abuse of the informational advantage that options traders could acquire from the Phlx equity floor with respect to securities traded under the Phlx OTC/UTP Pilot Program.[10] These requirements and the Commission's intent to monitor for abuses will continue in effect, particularly if the Phlx removes its temporary suspension of trading pursuant to its OTC/UTP Pilot Program and the Plan.

The Commission believes that it is appropriate to extend the Phlx OTC/UTP Pilot Program through August 12, 1995, while the Commission evaluates the overall program for OTC/UTP and any enhancements or changes to the program that may be necessary to further the purposes of the Act. In the interim, however, the Commission continues to believe that the Phlx OTC/UTP Pilot Program, as limited by the Joint OTC/UTP Plan, generally furthers the objectives of a national market system and is consistent with the maintenance of fair and orderly markets and the protection of investors as required by Sections 6(b)(5), 11A and 12(f) of the Act.

V. Conclusion

For the reasons stated above, the Commission believes that it is appropriate to extend the Phlx OTC/UTP Pilot Program through August 12, 1995.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In light of the previously scheduled expiration of the Phlx OTC/UTP Pilot Program on June 30, 1995, the Commission believes that accelerated approval of the proposal is appropriate in order to allow the Phlx to continue to have rules in place for OTC/UTP trading. Further, the Phlx OTC/UTP Pilot Program and the accompanying rules have been noticed previously in the **Federal Register** for the full statutory period, and the Commission received no comments on the proposal.[11]

It is Therefore ordered, pursuant to Section 19(b)(2)[12] that the proposed rule change is hereby approved on a pilot basis through August 12, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–17138 Filed 7–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35943; File No. SR–Phlx–95–05]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Response Period for Customized Foreign Currency Options

July 7, 1995.

On February 21, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to eliminate the response period and the special parity rules that apply following a request for quote (''RFQ'') for a customized foreign currency option (''FCO''). Notice of the proposal appeared in the **Federal Register** on April 24, 1995.[3] No comment letters were received on the proposed rule change. This order approves the Phlx proposal.

The purpose of the proposed rule change is to amend Exchange Rule 1069(b) in order to eliminate both the response period permitted following an RFQ for a customized FCO and the special parity rules for assigned Registered Options Traders (''ROTs'') that apply during that response period.[4] Currently, when a participant submits an RFQ, any other participant may request a preset response time.[5] Once the response period has been invoked, a trade may occur prior to the end of the response period only if at least two assigned ROTs respond to the RFQ.

The special parity provisions in Rule 1069 provide that any assigned ROT who enters a responsive quote that is improved upon during the response time by another participant is entitled to participate on a parity basis with that other participant by announcing immediately thereafter, and prior to the execution of the order, that he or she is matching the best bid or offer. This ability to match is available to assigned ROTs until the execution of the trade or the end of the response time period, whichever occurs first.

The Phlx now proposes to amend Rule 1069 to eliminate the response time period and the special parity provisions. As a result, the Exchange represents that customized FCOs would trade more like other FCOs listed on the Exchange in that trades would be executable as soon as any responsive quote[6] is made and the Exchange's existing parity and priority provisions in Phlx Rule 1014(h) would apply.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

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to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 11A provides, among other things, that it is in the public interest and appropriate for the protection of investors to assure fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets. Section 12(f), as recently amended by the UTP Act of 1994, provides, among other things, that exchange may extend UTP to securities that are registered, but not listed on any exchange, provided that certain conditions are met.

[7] See Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640.

[8] See note 3, *supra.*

[9] See note 4, *supra.*

[10] *Id.*

[11] See *supra* note 4.

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 73s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See Securities Exchange Act Release no. 35615 (April 17, 1995), 60 FR 20133.

[4] The proposal also adopts Floor Procedure Advice F–20 (Quoting and Trading Customized Foreign Currency Options) which will parallel the provisions in Exchange Rule 1069(b), as amended.

[5] The response period was initially set by the Exchange's FCO Committee at two minutes for simple strike options, five minutes for simple spreads, inverses, and cross-rates, and eight minutes for options strategies involving more than three legs. The FCO Committee shortened the response period to one minute for all types of RFQs for customized FCOs on January 16, 1995, effective at the opening on January 17, 1995.

[6] *See infra* note 8.

applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[7] Specifically, the Commission believes the proposal may attract additional customized FCO transactions to the Exchange, particularly crossing transactions[8] that are currently executed in the over-the-counter (''OTC'') market. As the Commission stated in approving the listing of customized FCOs by the Exchange, the benefits of trading on an exchange versus OTC trading include, but are not limited to, a centralized market, posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of The Options Clearing Corporation as the issuer of all customized FCOs listed on the Exchange.[9] Even though eliminating the response time period may reduce some of the opportunity for price improvement that is currently available for customized FCOs traded on the Exchange,[10] the structure currently in place for the trading of customized FCOs, which the Commission has found to be consistent with the Act,[11] will otherwise remain unchanged.

In this regard, the proposal effectively alters the trading structure of customized FCOs in a manner making it more similar to the trading of regular FCOs listed by the Exchange. As a result, the Commission believes that the proposal does not raise any significant regulatory concerns that have not been previously addressed by the Phlx and the Commission in connection with the trading of regular FCOs.

Finally, the Exchange stated in its proposal that the response period and the attendant parity rules were intended to assure that the floor traders, who the Phlx believes are crucial to providing liquidity to the marketplace, were not placed at a disadvantage to the off-floor traders. The Exchange represents, however, that the level of trading in customized FCOs has not provided sufficient activity to determine whether this concern is valid. The Exchange believes, however, that as additional trading history for customized FCOs develops, it will be in a better position to monitor the trading activity in customized FCOs to ensure that no material competitive disparity is actually occurring.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–Phlx–95–05) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–17204 Filed 7–12–95; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] A crossing transaction is one in which the same broker acts as agent in both sides of a trade. As applied to customized FCOs, Phlx's crossing rules (see Phlx Rule 1064) provide that a participant may cross orders by submitting an RFQ in which he announces his intention to cross and his market for the transaction. After providing an opportunity for responsive bids and offers to be made, he may then execute the cross by improving the best bid or offer by the minimum fractional change and announcing the quantity and price for the transaction. Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Senior Counsel, Division of Market Regulation, Commission, on July 5, 1995.

[9] See Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994) (''Exchange Act Release No. 34925'').

[10] Phlx's parity and priority provisions in Rule 1014(h) will apply to transactions in customized FCOs. For crossing transactions, however, by eliminating the response time period, the Commission recognizes that the opportunity for other participants to better the market will be diminished. See *supra* note 8.

[11] See Exchange Act Release No. 34925, *supra* note 9.

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1944).

[Rel. No. IC–21192; File No. 812–9274]

Connecticut General Life Insurance Company, et al.

July 6, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''1940 Act'').

SUMMARY: Connecticut General Life Insurance Company (''CG Life''), CG Variable Life Insurance Separate Account I (the ''Account''), any other separate account established by CG Life in the future (the ''Other Accounts'', collectively, with the Account, the ''Accounts'') to support certain flexible premium variable life insurance policies which are substantially similar, in all material respects, to the Existing Contracts described below (the ''Future Contracts'', collectively, with the Exiting Contracts, the ''Contracts'') and Cigna Financial Advisors, Inc. (''Cigna'').[1]

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit them to deduct from premiums received under the Contracts issued by CG Life and the Accounts a charge that is reasonable in relation to CG Life's increased federal income tax burden resulting from the receipt by CG Life of such premiums in connection with the Contracts.

FILING DATE: The application was filed on October 11, 1994 and amended and restated on May 19, 1995. Applicants represent that an amendment to the application will be filed during the notice period.

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 on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on July 31, 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 interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Applicants, Robert A. Picarello, Esq., Connecticut General Life Insurance Company, 900 Cottage Grove Road, Hartford, Connecticut 06002.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Counsel, or Wendy Friedlander, Deputy Chief, both at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicant's Representations

1. CG Life, a stock life insurance company domiciled in Connecticut, is a wholly owned subsidiary of CIGNA Holdings, Inc., which is, in turn, wholly owned by CIGNA Corporation. The Account, established by CG Life on July 6, 1994 pursuant to Connecticut law, is registered with the Commission as a unit investment trust. The assets of the Account are divided among subaccounts, each of which will invest in shares of one of five registered

[1] Applicants represent that an amendment to the application will be filed during the notice period and that such amendment will include the description of the Applicants contained in this notice.

investment companies (the ''Funds''). The Funds currently offer sixteen portfolios for investment. Each of the Funds is an open-end diversified management investment company registered under the 1940 Act. The Other Accounts will be organized as unit investment trusts and will file registration statements under the 1940 Act and the Securities Act of 1933.

2. Cigna will serve as the distributor and the principal underwriter of the Existing Contracts. Applicants state that it is expected that Cigna will also serve as the distributor and the principal underwriter of the Future Contracts. Cigna is a wholly owned subsidiary of Connecticut General Corporation which is, in turn, a wholly owned subsidiary of CIGNA Corporation. Cigna is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, an investment advisor under the Investment Advisers Act of 1940 and is a member of the National Association of Securities Dealers, Inc.

3. The Existing Contracts are flexible premium variable life insurance policies. The Existing Contracts are issued on an individual basis only. The Future Contracts will be substantially similar in all material respects to the Existing Contracts. The Contracts will be issued in reliance on Rule 6e–3(T)(b)(13)(i)(B) under the 1940 Act. Applicants state that CG Life will deduct 1.15% of each premium payment made under the Contracts to cover CG Life's estimated cost for the federal income tax treatment of deferred acquisition costs.

4. In the Omnibus Budget Reconciliation Act of 1990, Congress amended the Internal Revenue Code of 1986 (the ''Code'') by, among other things, enacting Section 848 thereof. Section 848 changed how a life insurance company must compute its itemized deductions from gross income for federal income tax purposes. Section 848 requires an insurance company to capitalize and amortize over a period of ten years part of the company's general expenses for the current year. Under prior law, these general expenses were deductible in full from the current year's gross income.

5. The amount of deductions that must be capitalized and amortized over ten years rather than deducted in the year incurred is based solely upon ''net premiums'' received in connection with certain types of insurance contracts. Section 848 of the Code defines ''net premium'' for a type of contract as gross premiums received by the insurance company on the contracts minus return premiums and premiums paid by the insurance company for reinsurance of its obligations under such contracts. Applicants state that the effect of Section 848 is to accelerate the realization of income from insurance contracts covered by that Section, and, accordingly, the payment of taxes on the income generated by those contracts.

6. The amount of general deductions that must be capitalized depends upon the type of contract to which the premiums received relate and varies according to a schedule set forth in Section 848. Applicants state that the Contracts are ''specified insurance contracts'' that fall into the category of life insurance contracts, and under Section 848, 7.7% of the year's net premiums received must be capitalized and amortized.

7. Applicants state that the increased tax burden on CG Life resulting from Section 848 may be quantified as follows. For each $10,000 of net premiums received by CG Life under the Contracts in a given year, CG Life's general deductions are reduced by $731.50 or (a) $770 (7.7% of $10,000) minus (b) $38.50 (one-half year's portion of the ten year amortization). This leaves $731.50 ($770 minus $38.50) subject to taxation at the corporate tax rate of 35%. This results in an increase in tax for the current year of $256.03 (.35 × $731.50). This increase will be partially offset by deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770 ($77 in each of the following nine years and $38.50 in the tenth year).

8. In the business judgment of CG Life, a discount rate of 10% is appropriate for use in calculating the present value of CG Life's future tax deductions resulting from the amortization described above. Applicants state that CG Life seeks an after tax rate of return on the investment of its capital in excess of 10%. To the extent that capital must be used by CG Life to meet its increased federal tax burden under Section 848 resulting from the receipt of premiums, such capital is not available to CG Life for investment. Thus, Applicants argue, the cost of capital used to satisfy CG Life's increased federal income tax burden under Section 848 is, in essence, CG Life's after tax rate of return on capital; and, accordingly, the rate of return on capital is appropriate for use in this present value calculation.

9. Applicants submit that, to the extent that the 10% discount rate is lower than CG Life's actual targeted rate of return, a measure of comfort is provided that the calculation of CG Life's increased tax burden attributable to the receipt of premiums will continue to be reasonable over time, even if the corporate tax or the targeted after tax rate of return applicable to CG Life is reduced. CG Life undertakes to monitor the tax burden imposed on it and to reduce the charge to the extent of any significant decrease in the tax burden.[2]

10. In determining the after tax rate of return used in arriving at the 10% discount rate, Applicants state that CG Life considered a number of factors, including: Historical capital costs; market interest rates; CG Life's anticipated long term growth rate; the risk level for this type of business; and inflation. CG Life represents that such factors are appropriate factors to consider in determining CG Life's cost of capital. Applicants state that CG Life first projects its future growth rate based on its sales projections, the current interest rates, the inflation rate, and the amount of capital that CG Life can provide to support such growth. CG Life then uses the anticipated growth rate and the other factors enumerated above to set a rate of return on Capital that equals or exceeds this rate of growth. Applicants state that CG Life seeks to maintain a ratio of capital to assets that is established based on CG Life's judgment of the risks represented by various components of CG Life's assets and liabilities. Applicants state that maintaining the ratio of capital to assets is critical to offering competitively priced products and, as to CG Life, to maintaining a competitive rating from various rating agencies. Consequently, Applicants state that CG Life's capital should grow at least at the same rate as do CG Life's assets.

11. Applying the 10% discount rate, and assuming a 35% corporate income tax rate, the present value of the tax effect of the increased deductions allowable in the following ten years amounts to a federal income tax savings of $160.40. Thus, the present value of the increased tax burden resulting from the effect of Section 848 on each $10,000 of net premiums received under the Contracts is $95.63, *i.e.*, $256.03 minus $160.40 or 1.47%.

12. State premium taxes are deductible in computing federal income taxes. Thus, CG Life does not incur incremental federal income tax when it passes on state premium taxes to owners of the Contracts. Conversely, federal income taxes are not deductible in computing CG Life's federal income taxes. To compensate CG Life fully for

[2] Applicants represent that an amendment to the application will be filed during the notice period and that such amendment will include the representations contained in paragraph nine of this notice.

the impact of Section 848, therefore, it would be necessary to allow CG Life to impose an additional charge that would make CG Life whole not only for the $95.63 additional federal income tax burden attributable to Section 848 but also for the federal income tax on the additional $95.63 itself. This federal income tax can be determined by dividing $95.63 by the complement of the 35% federal corporate income tax rate, *i.e.*, 65%, resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.47%.

13. Based on prior experience, CG Life expects that all of its current and future deductions will be fully taken. It is the judgment of CG Life that a charge of 1.15% would reimburse CG Life for the impact of Section 848 on CG Life's federal income tax liabilities. Applicants represent that the charge to be deducted by CG Life pursuant to the relief requested is reasonably related to the increased federal income tax burden under Section 848, taking into account the benefit to CG Life of the amortization permitted by Section 848, and the use by CG Life of a discount rate of 10% in computing the future deductions resulting from such amortization, such rate being the equivalent of CG Life's cost of capital.

14. While the application states that CG Life believes that a charge of 1.15% of premium payments would reimburse CG Life for the impact of Section 848 (as currently written) on CG Life's federal income tax liabilities, the application also states, however, that CG Life believes that it will have to increase this charge if any future change in, or interpretation of Section 848, or any successor provision, results in an increased federal income tax burden due to the receipt of premiums. Such an increase could result from a change in the corporate federal income tax rate, a change in the 7.7% figure, or a change in the amortization period.

Applicants' Legal Analysis

1. Applicants request an order of the Commission pursuant to Section 6(c) exempting them from the provisions of Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to the extent necessary to permit deductions to be made from premium payments received in connection with the Contracts. The deductions would be in an amount that is reasonable in relation to CG Life's increased federal income tax burden related to the receipt of such premiums. Applicants further request an exemption from Rule 6e–3(T)(c)(4)(v) of the 1940 Act to permit the proposed deductions to be treated as other than ''sales load'' for the purposes of Section 27 of the 1940 Act and the exemptions from various provisions of that Section found in Rule 6e–3(T)(b)(13).

2. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from any provision of the 1940 Act if and to the extent 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 the provisions of the 1940 Act.

Section 27(a)(2) and Rule 6e–3(T)(c)(4)

1. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by Sections 26(a)(2) and 26(a)(3) of the 1940 Act. Certain provisions of Rule 6e–3(T) provide a range of exemptive relief for the offering of flexible premium variable life insurance policies such as the Contracts. Rule 6e–3(T)(b)(13)(iii) provides, subject to certain conditions, exemptions from Section 27(c)(2) that include permitting a payment of certain administrative fees and expenses, the deduction of a charge for certain mortality and expense risks, and the ''deduction of premium taxes imposed by any state or other governmental entity.''

2. Rule 6e–3(T)(c)(4)(v) defines ''sales load'' charged during a contract period as the excess of any payments made during the period over the sum of certain specified charges and adjustments, including ''a deduction for and approximately equal to state premium taxes.''

3. Applicants submit that the deduction for federal income tax charges, proposed to be deducted in connection with the Contracts, is akin to a state premium tax charge in that it is an appropriate charge related to CG Life's tax burden attributable to premiums received. Thus, Applicants submit that the proposed deduction be treated as other than sales load, as is a state premium tax charge, for purposes of the 1940 Act.

4. Applicants argue that the requested exemptions from Rule 6e–3(T)(c)(4) are necessary in connection with Applicants' reliance on certain provisions of Rule 6e–3(T)(b)(13), and particularly on subparagraphs (b)(13)(i) of the Rule, which provides exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may only rely on Rule 6e–3(T)(b)(13)(i) if they meet the Rule's alternative limitations on sales load as defined in Rule 6e–3(T)(c)(4). Applicants state that, depending upon the load structure of a particular Contract, these alternative limitations may not be met if the deduction for the increase in an issuer's federal tax burden is included in sales load. Although a deduction for an insurance company's increased federal tax burden does not fall squarely within any of the specified charges or adjustments which are excluded from the definition of ''sales load'' in Rule 6e–3(T)(c)(4), Applicants state that they have found no public policy reason for including these deductions in ''sales load.''

5. The public policy that underlies Rule 6e–3(T)(b)(13)(i), like that which underlies Sections 27(a)(1) and 27(h)(1) of the 1940 Act, is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants submit that the treatment of a federal income tax charge attributable to premium payments as sales load would not in any way further this legislative purpose because such a deduction has no relation to the payment of sales commissions or other distribution expenses. Applicants state that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of ''sales load'' in Rule 6e–3(T)(c)(4).

6. Applicants assert that the source for the definition of ''sales load'' found in the Rule supports this analysis. Applicants state that the Commission's intent in adopting such provisions was to tailor the general terms of Section 2(a)(35) of the 1940 Act to variable life insurance contracts. Just as the percentage limits of Sections 27(a)(1) and 27(h)(1) depend on the definition of ''sales load'' in Section 2(a)(35) for their efficacy, the percentage limits in Rule 6e–3(T)(b)(13)(i) depend on Rule 6e–3(T)(c)(4) which does not depart, in principle, from Section 2(a)(35).

7. Section 2(a)(35) excludes deductions from premiums for ''issue taxes'' from the definition of ''sales load'' under the 1940 Act. Applicants submit that this suggests that it is consistent with the policies of the 1940 Act to exclude from the definition of ''sales load'' in Rule 6e–3(T) deductions made to pay an insurance company's costs attributable to its tax obligations. Section 2(a)(35) also excludes administrative expenses or fees that are ''not properly chargeable to sales or promotional activities.'' Applicants argue that this suggests that the only deductions intended to fall within the

definition of ''sales load'' are those that are properly chargeable to such activities. Because the proposed deductions will be used to compensate CG Life for its increased federal income tax burden attributable to the receipt of premiums, and are not properly chargeable to sales or promotional activities, this language in Section 2(a)(35) is another indication that not treating such deductions as ''sales load'' is consistent with the policies of the 1940 Act.

8. Applicants assert that the terms of the relief requested with respect to Contracts to be issued through the Accounts are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, CG Life would have to request and obtain exemptive relief for each Contract to be issued through one of the Accounts. Applicants state that such additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this request for exemptive relief.

9. Applicants assert that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for CG Life to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. The delay and expense involved in having to seek repeated exemptive relief would impair the ability of CG Life and the Accounts to take advantage fully of business opportunities as those opportunities arise. Additionally, Applicants state that the requested relief is consistant with the purposes of the 1940 Act and the protection of investors for the same reasons. If CG Life were required to seek exemptive relief repeatedly with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of increased overhead expenses for CG Life and the Accounts.

Conditions for Relief

1. Applicants represent that CG Life will monitor the reasonableness of the charge to be deducted by CG Life pursuant to the requested exemptive relief.

2. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will: (i) Disclose the charge; (ii) explain the purpose of the charge; and (iii) state that the charge is reasonable in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums.

3. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will contain as an exhibit an actuarial opinion as to: (i) The reasonableness of the charge in relation to CG Life's increased federal income tax burden under Section 848 resulting from the receipt of premiums; (ii) the reasonableness of the after tax rate of return that is used in calculating such charge and the relationship that such charge has to CG Life's cost of capital; and (iii) the appropriateness of the factors taken into account by CG Life in determining the after tax rate of return.

4. Applicants undertake to rely on the exemptive relief requested herein with respect to Future Contracts only where the contracts are substantially similar in all material respects to the Existing Contracts.

Conclusion

Applicants submit that, for the reasons and upon the facts set forth above, the requested exemptions from Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to permit CG Life to deduct 1.15% of premium payments under the Contracts meet the standards set forth in Section 6(c) of the 1940 Act. In this regard, Applicants assert that granting the relief requested in the application would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–17139 Filed 7–12–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2228]

Determination Under Section 498B(c) of the Foreign Assistance Act of 1961, as Amended

Pursuant to section 498B(c) of the Foreign Assistance Act of 1961, as amended (the ''Act''), and section 2(c) of Executive Order 12884, I hereby determine that The U.S. Russia Investment Fund should be established and supported under chapter 11 of part I of the Act.

The determination shall be published in the **Federal Register**.

Dated: June 23, 1995.

Richard Morningstar,

Coordinator of U.S. Assistance To the New Independent States.

[FR Doc. 95–17145 Filed 7–12–95; 8:45 am]

BILLING CODE 4710–23–M

Bureau of Economic and Business Affairs

[Public Notice 2230]

Finding of No Significant Impact: Chevron Pipe Line Company, Pipeline at El Paso, TX

AGENCY: Department of State.

ACTION: Notice of a finding of no significant impact with regard to an application to construct, connect, operate and maintain a pipeline to transport refined petroleum products across the U.S.-Mexico border.

SUPPLEMENTARY INFORMATION: Chevron Pipe Line Company has applied for a Presidential Permit to authorize construction, connection, operation and maintenance of an 8.625 inch diameter pipeline to convey refined petroleum products across the border with Mexico at El Paso, Texas.

The proposed pipeline would extend 2.75 miles inside the United States and convey petroleum products currently being transported by truck. By eliminating about 60 truck trips a day across the border, the pipeline will reduce traffic and related air pollution as well as the risk of accidents. The pipeline also will facilitate development of export markets for U.S. products.

SUMMARY: In accordance with the requirements of the National Environmental Policy Act (NEPA) and the Department's regulations for implementation of NEPA (22 CFR Part 161) the Department of State has conducted an environmental assessment of the proposed construction by Chevron Pipe Line Company of a petroleum products pipeline across the international boundary at El Paso, Texas. The Department of State is charged with the issuance of Presidential Permits authorizing construction of such international pipelines under Executive Order 11423 (1968), as amended by Executive Order 12847 (1993). Several federal agencies cooperated in preparation of the environmental assessment, reviewing and commenting on the analysis and conclusions presented therein. Agencies participating in this process together with the Department of State included:

the Council on Environmental Quality, the Environmental Protection Agency, the Department of Interior and its Bureau of Reclamation, the Justice Department, the International Boundary and Water Commission-U.S. Section and the U.S. Army Corps of Engineers.

The permit application and draft environmental assessment were made available to the public for review and comment. Following a public comment period, notice of which was provided in the **Federal Register** and in El Paso newspapers, a meeting was held in El Paso on March 6, 1995 to hear comments from members of the public. Numerous oral and written comments were received. All comments, whether from federal agencies or members of the public were considered and addressed in the final environmental assessment.

Based on the final environmental assessment, which included a review of all comments received, the Department of State has concluded that issuance of a Presidential Permit authorizing construction of the proposed pipeline through the Bureau of Reclamation's right of way (whether using the proposed route 1b or the alternative route 1c as described in the final environmental assessment) will not have a significant effect on the quality of the human environment within the United States. Therefore, in accordance with NEPA regulations, 40 CFR 1501.4 and 1508.3 and with State Department Regulations, 22 CFR 161.8 (c) an environmental impact statement will not be prepared.

Factors Considered: The Department of State considered several alternatives to the proposed action including alternative pipeline routes and the option of not building a pipeline. Analysis of the options led to the conclusion that the environmentally preferred alternatives would be to construct the pipeline through the Bureau of Reclamation's right of way (using either route 1b or route 1c).

The Department's analysis of all the options and reasoning supporting this decision is presented in the final environmental assessment. Copies of the final environmental assessment are being provided to interested parties and civic groups in El Paso and a copy will be available for public inspection at the EPA regional office in El Paso.

FOR FURTHER INFORMATION ON THE PIPELINE PERMIT APPLICATION, CONTACT: Donald E. Grabenstetter, Office of International Energy Policy, Room 3529, U.S. Department of State, Washington, DC, 20520, (202) 647–4557.

FOR FURTHER INFORMATION ON THE ENVIRONMENTAL ASSESSMENT, CONTACT: Charlotte Roe, Office of Ecology and Terrestrial Conservation, Room 4325, U.S. Department of State, Washington, DC 20520, (202) 647–3367.

Dated: June 9, 1995.

Glen R. Rase,

Director, International Energy Policy.

[FR Doc. 95–17146 Filed 7–12–95; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 2227]

Bureau of Political-Military Affairs

AGENCY: Department of State.

ACTION: Determination under the Arms Export Control Act.

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended, notice hereby is given that the Under Secretary of State for Arms Control and International Security Affairs has made a determination pursuant to Section 73 of the Arms Export Control Act and has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: June 16, 1995.

Thomas E. McNamara,

Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 95–17144 Filed 7–12–95; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF THE TREASURY

Secret Service

Appointment of Performance Review Board (PRB) Members

This notice announces the appointment of members of Senior Executive Service Performance Review Boards in accordance with 5 U.S.C. 4314(c)(4) for the rating period beginning July 1, 1994, and ending June 30, 1995. Each PRB will be composed of at least three of the Senior Executive Service member listed below.

Name and Title

Richard J. Griffin—Deputy Director, U.S. Secret Service

Hubert T. Bell—Executive Director for Workforce Planning and Diversity Management (USSS)

Richard S. Miller—Assistant Director, Protective Operations (USSS)

James G. Huse, Jr.—Assistant Director, Inspection (USSS)

W. Ralph Basham—Assistant Director, Administration (USSS)

H. Terrence Samway—Assistant Director, Government Liaison & Public Affairs (USSS)

K. David Holmes, Jr.—Assistant Director, Training (USSS)

David C. Lee—Assistant Director, Protective Research (USSS)

Paul A. Hackenberry—Assistant Director, Investigations (USSS)

John J. Kelleher—Chief Counsel, U.S. Secret Service

For Additional Information, Contact: Susan T. Tracey, Chief, Personnel Division, Room 901, 1800 G Street, NW., Washington, DC 20223, Telephone No. 202–435–5635.

Eljay B. Bowron,

Director.

[FR Doc. 95–17182 Filed 7–12–95; 8:45 am]

BILLING CODE 4810–42–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 134
Thursday, July 13, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 18, 1995 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.
Statements of Work for Requirements and Cost Benefit Analyses.

DATE AND TIME: Thursday, July 20, 1995 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinions:
AOR 1995–17
National Association of Realtors by counsel, Ralph W. Holmen
AOR 1995–19
Indian-American Leadership Investment Fund by its treasurer, Subodh Chandra
AOR 1995–23
U.S. Representative Christopher Shays
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc 95–17370 Filed 7–11–95; 3:06 pm]

BILLING CODE 6715–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

USITC SE–95–021

TIME AND DATE: July 19, 1995 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–362 and 731–TA–707–710 (Final) (Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe from Argentina, Brazil, Germany, and Italy)—briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:
Issued: July 10, 1995.

Donna R. Koehnke,
Secretary.

[FR Doc. 95–17317 Filed 7–11–95; 2:36 pm]

BILLING CODE 7020–02–P

STATE JUSTICE INSTITUTE

TIME AND DATE:

Friday, July 28, 1995, 9 a.m.–5 p.m.
Saturday, July 29, 1995, 9 a.m.–5 p.m.

PLACE: Hyatt Regency Monterey, One Old Golf Course Road, Monterey, CA 93940.

MATTERS TO BE CONSIDERED: FY 1995 grant applications and internal Institute business

PORTIONS OPEN TO THE PUBLIC: All matters other than those noted as closed below.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters; Board committee meetings.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,
Executive Director.

[FR Doc. 95–17313 Filed 7–11–95; 2:35 pm]

BILLING CODE 6820–SC–M

Corrections

Federal Register

Vol. 60, No. 134

Thursday, July 13, 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.

POSTAL SERVICE

39 CFR Part 111

Classification Reform; Implementation Standards

Correction

In proposed rule document 95–15985 beginning on page 34056, in the issue of Thursday, June 29, 1995, the tables on pages 34059-34060, 34063-34064, and 34067-34069 to the Domestic Mail Manual are corrected to read as follows:

I–1 FIRST-CLASS MAIL

[Automation Subclass—Letters]

Sort level	Opt./req.	Rate qualification minimum	Tray levels	Rates letters [1]	Rates cards (cents)
Carrier route [2]	Opt.	10 pieces per route	Carrier route (full, no overflow)	23.2	13.7
Carrier route [2]	Opt.	10 pieces per route	5-digit carrier routes (no min.)	23.2	13.7
5-digit	Opt.	150 pieces	5-digit (full, overflow allowed)	23.5	14.0
3-digit	Req.	150 pieces	3-digit (full, overflow allowed)	25.0	15.5
AADC	Req.	N/A	AADC (full, overflow allowed)	27.0	17.5
Mixed AADC	Req.	N/A	Mixed AADC (no min., grouped by AADC)	27.0	17.5

[1] First-ounce rate. Each additional ounce is 23.0__. Additional presort discount for pieces over 2 ounces 4.6__.
[2] Carrier route sortation and rates limited to nonautomated and CSBCS sorted ZIP Codes

I–2 FIRST-CLASS MAIL

[Automation Subclass—Flats]

Sort level	Optional/required	Package/rate qualification minimums [1]	Tray levels	Rate [2] (cents)
5-digit	Required	10 pieces	5-digit (full, no overflow)	27.0
3-digit	Required	10 pieces	3-digit (full, no overflow)	27.0
ADC	Required	10 pieces	ADC (full, no overflow)	29.0
Mixed ADC	Required	No min	Mixed ADC (no min.)	29.0

[1] Rate based on package without regard to the tray in which it is placed.
[2] First-ounce rate. An additional nonstandard surcharge of 5¢ applies to each piece weighing 1 ounce or less that falls outside the standard letter dimensions. Each additional ounce is 23.0¢. An additional presort discount of 4.6¢ applies to each piece weighing over 2 ounces.

I–3 FIRST-CLASS MAIL

[Retail Subclass—Presort Letters]

Sort level	Opt./req.	Package minimum	Tray levels	Rate letters (cents) [1]	Rate cards (cents)
5-Digit	Required	10 pieces	5-Digit (full, no overflow)	30.0	19.0

I–3 FIRST-CLASS MAIL—Continued

[Retail Subclass—Presort Letters]

Sort level	Opt./req.	Package minimum	Tray levels	Rate letters (cents) [1]	Rate cards (cents)
3-Digit	Required	10 pieces	3-Digit (full, no overflow)	30.0	19.0
ADC	Required	10 pieces	ADC (1/2 full, no overflow)	30.0	19.0
Mixed ADC	Required	No min	Mixed ADC (no min.)	30.0	19.0
OPTIONAL MAKE-UP FOR UPGRADABLE PIECES					
5-Digit	Optional	N/A	5-Digit (full, no overflow)	30.0	19.0
3-Digit	Required	N/A	3-Digit (full, no overflow)	30.0	19.0
AADC	Required	N/A	AADC (full-sequenced by 3-digit ZIP Code, no overflow).	30.0	19.0
Mixed AADC	Required	N/A	Mixed AADC (no min., sequenced by 3-digit ZIP Code).	30.0	19.0

[1] First-ounce rate. Each additional ounce is 23.0¢. Additional presort discount for pieces over 2 ounces 4.6¢.
Single-Piece Rates: No presort, no minimum.

I–4 FIRST-CLASS MAIL

[Retail Subclass—Flats, Parcels Under 11 Oz.]

Presort rate				
Sort level	Optional/required	Package minimum	Tray levels (Sacks for parcels)	Rate [1, 2] (cents)
5-Digit	Required	10 pieces	5-Digit (full, no overflow)	35.0
3-Digit	Required	10 pieces	3-Digit (full, no overflow)	35.0
ADC	Required	10 pieces	ADC (full, overflow allowed)	35.0
Mixed ADC	Required	No min	Mixed ADC (no min., sequenced by 3-digit ZIP Code).	35.0

[1] First-ounce rate of 30¢ plus the 5¢ nonstandard surcharge applicable to pieces weighing 1 ounce or less.
[2] Each additional ounce is 23.0¢. An additional presort discount of 4.6¢ applies to each piece weighing over 2 ounces.
Single-Piece Rates: No presort or minimum.

II–1 STANDARD MAIL

[Automation Subclass—Letters (Third-Class)]

Sort level	Opt./req.	Rate qualification minimum	Tray levels	Rate [1] (cents)
Carrier Route [2]	Opt.	10 pieces per route	Carrier Route (full, no overflow)	14.1
Carrier route [2]	Opt.	10 pieces per route	5-Digit Carrier Routes (no min.)	14.1
5-Digit	Opt.	150 pieces	5-Digit (full, overflow allowed)	15.5
3-Digit	Req.	150 pieces	3-Digit (full, overflow allowed)	16.8
AADC	Req.	N/A	AADC (full, overflow allowed)	17.5
Mixed AADC	Req.	N/A	Mixed AADC (no min., grouped by AADC)	17.5

[1] Destination discounts will also be available.
[2] Carrier Route sortation and rates limited to nonautomated and CSBCS sorted ZIP Codes.

II–2 STANDARD MAIL

[Automation Subclass—Flats (Third-Class)]

Sort level	Optional/required	Package minimum	Sacks [2]	Rate [1] (cents)
5-Digit	Required	10 pieces	5-Digit (min. 125 pieces or 15 lbs.)	19.0
3-Digit	Required	10 pieces	3-Digit (min. 125 pieces or 15 lbs.)	19.0
ADC	Required	10 pieces	ADC (min. 125 pieces or 15 lbs.)	23.7

II–2 STANDARD MAIL—Continued

[Automation Subclass—Flats (Third-Class)]

Sort level	Optional/required	Package minimum	Sacks [2]	Rate [1] (cents)
Mixed ADC	Required	No min	Mixed ADC (no min.)	23.7

[1] Rate is based on type of package regardless of sack in which, or pallet on which, it is placed. Destination discounts will also be available.
[2] Palletization preferred. Pallet destinations are not the same as sack levels shown.

II–3 STANDARD MAIL

[Regular Subclass—Letters (Third-Class)]

Sort level	Opt./req.	Package min.	Tray levels	Rate [1] (cents)
5-Digit	Required	10 pieces	5-Digit (full, no overflow trays)	21.9
3-Digit	Required	10 pieces	3-Digit (full, no overflow trays)	21.9
ADC	Required	10 pieces	ADC (½ full, no overflow trays)	26.1
Mixed ADC	Required	No min	Mixed ADC (no min.)	26.1
OPTIONAL MAKE-UP FOR UPGRADABLE PIECES [1]				
5-Digit	Optional	N/A	5-Digit (full, no overflow)	21.9
3-Digit	Required	N/A	3-Digit (full, overflow allowed)	21.9
AADC	Required	N/A	AADC (full, sequenced by 3-digit ZIP Code)	26.1
Mixed AADC	Required	N/A	Mixed AADC (no min., sequenced by 3-digit ZIP Code).	26.1

[1] Destination discounts will also be available.

II–4 STANDARD MAIL

[Regular Subclass—Flats and Parcels (Third-Class)]

Presort rate				Minimum piece rate [3, 4] (cents)
Sort level	Optional/required	Package minimum [1]	Sacks [1, 2]	
5-Digit	Required	10 pieces	5-Digit (min. 125 pieces or 15 lbs.)	23.7
3-Digit	Required	10 pieces	3-Digit (min. 125 pieces or 15 lbs.)	23.7
ADC	Required	10 pieces	ADC (min. 125 pieces or 15 lbs.)	30.5
Mixed ADC	Required	No min	Mixed ADC (no min.)	30.5

[1] No packaging will be required for machinable parcels. Machinable parcels will be sacked to 5-digit and destination BMC whenever there are 10 pounds or more of mail for a sack destination, with remaining parcels sacked to the origin BMC. The 5-digit sacks will be optional for mail claiming basic rates.
[2] Palletization permitted and preferred. Pallet destinations are different from the sack destinations shown.
[3] Rate is based on sack level for sacked mail. For packages on pallets, the rate is based on the package level.
[4] Destination discounts will also be available.

Activity	Total pieces	Qualifying pieces	Qualifying percent
January main file	250,000	240,000	96
January supplement [1]	42,000	38,000	90
January supplement [1]	15,000	14,000	93
January supplement	2,000	800	40
December supplement [1]	23,000	18,000	78
December supplement [1]	9,000	8,000	89
December supplement	150	0	0
November supplement	1,300	800	62
November supplement	200	0	0
	342,650	319,600	93

[1] Comailing

III–1 PUBLICATIONS SERVICE SUBCLASS—LETTERS

Sort level	Opt./req.	Package minimum	Tray levels	Rate
CR	Opt.	10 pieces per route	CR (full, no overflow)	Pub. Svc. CR
CR	Opt.	10 pieces per route	5D CR–RT (no min.)	Pub. Svc. CR
5–Digit	Opt.	N/A	5–Digit (full, overflow allowed)	Pub. Svc.
3–Digit	Req.	N/A	3–Digit (full overflow allowed)	Pub. Svc.
AADC	Req.	N/A	AADC (full, overflow allowed)	Pub. Svc.
Mixed AADC	Req.	No minimum AADC sequence (with separations).	Mixed AADC (no min.)	Pub. Svc.

III–2 PUBLICATIONS SERVICE SUBCLASS—FLATS

Sort level	Opt./Req.	Package minimum	Sacks	Rate
Firm	Opt.	2 copies		Pub. Svc. or Pub. Svc. CR (depending on further packaging & sacking)
Carrier route	Opt.	6 pieces per route	Carrier route (min., one 6-pc. pkg., required if 24 or more pieces).	Pub. Svc. CR
		6 pieces per route	5–Digit carrier routes (no min.)	Pub. Svc. CR
5–Digit	Req.	6 pieces	5–Digit (min., one 6-pc. pkg., required if 24 or more pieces).	Pub. Svc.
3–Digit	Req.	6 pieces	3–Digit (min., one 6-pc. pkg., required if 24 or more pieces).	Pub. Svc.
ADC	Req.	6 pieces (fewer permitted).	ADC (min., one 6-pc. pkg., required if 24 or more pieces).	Pub. Svc.
Mixed ADC	Req.	No minimum	Mixed ADC (no min.)	Pub. Svc.

BILLING CODE 1505-01-D

federal register

Thursday
July 13, 1995

Part II

Department of Housing and Urban Development

Public Housing Youth Entrepreneurial Demonstration Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3915–N–01]

Public Housing Youth Entrepreneurial Demonstration Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability.

SUMMARY: This notice of funding availability announces the Department's intention to award a total of $1 million in grants to the Philadelphia Housing Authority and the Housing Authority of the City of Los Angeles to partner with the Education Training & Enterprise Center (EDTEC) to enhance the long-term welfare of youth living in public housing through structured Youth Entrepreneurial Demonstration Programs.

EDTEC is currently under contract with the Department to design, develop and implement Youth Entrepreneurial Demonstration Institutes in the communities of the Housing Authorities (HAs) referenced above. During the development and implementation of these Youth Entrepreneurial Demonstration Institutes (Institute or Institutes), the Housing Authorities (HAs) named above and EDTEC will seek input and cooperation in the form of technical assistance, guidance and additional financial resources, to be used for micro enterprise start up and operation, from but not limited to the following types of organizations: Resident Councils (RCs), Resident Management Corporations (RMCs), neighborhood schools, other neighborhood service organizations, private corporations, university business school students, and volunteer mentors. The Youth Entrepreneurial Demonstration Programs that will be provided by the Institutes will take participants through initial literacy training, when necessary, and continue them through actual business planning, business start up and provide the necessary on going business support that can lead to self-sufficiency for public housing youth. Throughout the performance period of this notice, funds from these grants will be targeted to assist participating youths in gaining access to the required education, employment and supportive services. This notice provides guidelines for the use of these funds and invites comments on the demonstration.

The performance period for this demonstration program will be for 24 months after award.

DATES: *Application due date.* Applications must be physically Received by the local HUD office having jurisdiction over the proposed project on or before 3:00 p.m. (local time) on August 14, 1995. This application deadline is firm as to location, date, and hour. In the interest of fairness to all competing applicants, HUD shall treat as ineligible for consideration any application that is received after the deadline.

Comments due date. August 14, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Darlene Cocco, Office of Community Relations and Involvement (OCRI), Department of Housing and Urban Development, 451 Seventh Street SW., Room 4112, Washington, DC 20410, Telephone Number (202) 619–8201. (This is not a toll-free number). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on (202) 708–9300 or 1–800–877–8339) for information on the program.

SUPPLEMENTARY INFORMATION:

I. Authority

The $1 million for the Youth Entrepreneurial Demonstration Program is funded from a portion of the $20 million appropriated in the Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act for 1994 (Pub. L. 103–124, approved October 28, 1993) (the 1994 Appropriations Act), under the heading ''Severely Distressed Public Housing Projects.'' This grant program provides funds for the implementation of Youthbuild programs authorized under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as added by section 164 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

II. Announcement of Demonstration

This notice announces the Department's intention to award a total of $1 million in grants to the Philadelphia Housing Authority and the Housing Authority of the City of Los Angeles to partner with the Education Training & Enterprise Center (EDTEC) to enhance the long-term welfare of youth living in public housing through the Youth Entrepreneurial Demonstration Program. Youth is defined as a person between 16–24 years old in accordance with Youthbuild Subchapter C of Chapter V of Title 24 of the Code of Federal Regulations as amended by the new part 585.

Los Angeles and Philadelphia were selected because the targets for this Demonstration are Troubled Housing Authorities, which they are, and both cities have the relationship with EDTEC and private partners necessary to undertake this project. The Demonstration program will also help youth of public housing benefit from section 3 of the Housing and Urban Development Act of 1968, as amended.

In accordance with the requirements of section 470(a) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 3542), this notice describes the intent of the Youth Entrepreneurial Demonstration Program and invites public comment. Any changes made in this demonstration as a result of the Department's consideration of public comments, and any extension of time for commitment of funds that may be necessary because of these changes, will be published in the **Federal Register**.

The Department will not commit funds for the demonstration until after the latest of: (1) The date the Department has considered any comments received in response to this notice; (2) September 11, 1995, which is 60 days after today's publication date; and (3) the date the Department has received and approved a proposal that meets the requirements set forth in this notice and any subsequent notice announcing changes in the demonstration.

III. Maximum Award

Under this Demonstration, the Department is making available a maximum of $500,000 to the Philadelphia Housing Authority and $500,000 to the Housing Authority of the City of Los Angeles to carry out this Demonstration.

IV. Description of Demonstration

The Youth Entrepreneurial Demonstration Program is part of HUD's comprehensive strategy to enable

resident youths ages 16–24 from public housing communities to develop and expand their entrepreneurial skills to help them open businesses in and out of their communities which will provide opportunities leading to self-sufficiency.

Eligible Program Participants

Eligible program participants must be public housing residents, and in accordance with Youthbuild:

(1) Participants must be very low-income individuals aged 16 to 24 years, who are high school dropouts. An exception allows for 25 percent of the participants to be individuals who do not meet the program's income or educational requirements but who have educational needs despite attainment of a high school diploma or its equivalency.

(2) Any eligible individual selected for full-time participation in this program may be offered full-time participation for a period of not less than 6 months and not more than 24 months unless the Youth Entrepreneurial Demonstration Program extends beyond this time frame.

(3) Programs must be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities. All educational programs and activities supported with funds from the demonstration program must be consistent with applicable State and local educational standards. Standards and procedures for academic credit and certifying educational attainment must be consistent with applicable State and local educational standards.

(4) Wages and benefits, labor standards, and nondiscrimination requirements shall apply under this program as they would under the Youthbuild program. Housing authorities participating in this demonstration program may not be prevented from using funds from non-Federal sources to increase wages and benefits under the program, if appropriate.

Eligible Activities

Eligible activities under these grants are the following:

(1) Policy Recommendations. Develop policy recommendations regarding the Public Housing Youth Entrepreneurial Demonstration Program's operation for HUD and the two public housing authorities to further their goals of economic empowerment and drug prevention for youth who reside in public and Indian housing.

(2) Training Curriculum. The PHA will customize and supplement the training curriculum provided by EDTEC to meet the needs of the youth in their communities.

(3) Entrepreneurship Course. The PHA will deliver the entrepreneurship program provided by EDTEC and customized by the PHA.

(4) On Site Technical Assistance. As youth put their businesses together, the grantee must be able to provide technical assistance to youth operated businesses including but not limited to the following areas: legal, accounting, marketing, etc. This assistance should be available for a sufficient amount of time to insure success.

(5) Wages, benefits and stipends for participants.

(6) Mentorship. Develop and implement a mentoring program as an integral and critical ongoing component of the Public Housing Youth Entrepreneur Demonstration Program. The objective of this effort is to afford the participants the opportunity to learn from others' strengths and limitations, and to benefit from others' experiences in building enterprises which are highly prosperous in creating economic development opportunities in the inner cities to help public housing youth have an economic alternative to drugs. Housing Authorities (HAs) named above and EDTEC will obtain input and cooperation in the form of technical assistance, guidance and additional financial resources to be used for micro enterprise start up and operation, from but not limited to the following types of organizations: Resident Councils (RCs), Resident Management Corporations (RMCs), neighborhood schools, other neighborhood service organizations, private corporations, university business school students, and volunteer mentors.

(7) Supportive Services. Provide supportive services which will enable participants to attend and fully participate in the Institute's activities, (i.e. transportation, childcare, stipends, etc.).

(8) Financing/Loan Fund. Develop a strategy with the Institute for establishing a revolving micro loan fund for youth seeking business start up funds.

(9) Clearinghouse. Collect, assemble and develop materials on youth entrepreneurship in and out of public housing for the distribution by the Office of Community Relations and Involvement (OCRI) Clearinghouse. Develop model program briefs on successful youth entrepreneurial models emphasizing the ''how to'' of the project and clearly defining the obstacles and how they were overcome. Video studies may be done on several of the most successful models.

(10) Reports. Produce quarterly reports that reflect the current status of the project. These reports will be used to determine whether or not this initiative is on target relative to a specified timetable (time to be technically determined later) and meeting the stated objective of the institutes and tracking specific outcome measures agreed to by HUD and the contractor.

(11) Final Report/Evaluation. Produce and submit a final report which shall be an evaluation of technical assistance, the resources required to meet the objective of the institutes, including an assessment of the strategies used to implement the project, and any recommendations. The contractor shall also make recommendations regarding the replication of this project or the development of any future entrepreneurial institutes.

Restrictions

No more than 15 percent of the total grant amount may be used for administrative costs.

Reports

Each PHA receiving a grant shall submit to HUD a *quarterly and an annual* progress report (in a format to be provided by HUD) regarding the implementation of this program and the effectiveness of the Youth Entrepreneur Demonstration Program in meeting its purpose.

Proposal Requirements

In order to receive the funding proposed in this notice, each PHA must submit a proposal describing its program in detail. Proposals are not limited to but must include:

(1) A copy of the agreement between the PHA, EDTEC and the private organization providing mentorship that meets the requirement of the program;

(2) A description of how eligible participants will be recruited;

(3) An accompanying implementation schedule and budget;

(4) A description of training and placement activities under the demonstration and how training activities will prepare the participants for entrepreneurial opportunities;

(5) A description of resident involvement in the program's planning and implementation;

(6) A description of efforts to provide business development, business start-up and business operation for successful program participants;

(7) A description of how program success will be measured, describing the

baseline indicators against which success will be measured;

(8) A description of how program participants' supportive service needs will be met;

(9) Certification that participants will be eligible as defined in the notice; and

(10) A training curriculum on the major body of knowledge required for a successful youth entrepreneurship development. This curriculum, developed by EDTEC and customized by PHA must be approved by HUD.

Other Matters

A. Environmental Impact

In accordance with 40 CFR 1508.4 of the Council on Environmental Quality regulations and 24 CFR 50.19 of the HUD regulations, the policies and procedures proposed in this document are determined not to have the potential of having a significant impact on the quality of the human environment and therefore are exempt from further environmental reviews under NEPA.

B. Federalism Executive Order

The General Counsel, as the Designated Official under Section 8(a) of Executive Order 12612, Federalism, has determined that the provisions in this Notice of Funding Availability are closely based on statutory requirements and impose no significant additional burdens on States or other public bodies. This NOFA does not affect the relationship between the Federal Government and the States and other public bodies or the distribution of power and responsibilities among varies levels of government. Therefore, the policy is not subject to review under Executive Order 12612.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this Notice of Funding Availability will have a significant impact on formation, maintenance or well being of the family. This Demonstration program will enhance the long term welfare of youth in public housing. Therefore, since the impact upon the family is beneficial, no further review under this Order is necessary.

D. Section 102 of the HUD Reform Act

Documentation and Public Access Requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (Form HUD–2880) submitted in connection with this NOFA. Update reports (also Form HUD–2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 15, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

E. Section 103 of the HUD Reform Act

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulations implementing section 103 are at 24 CFR part 4. In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics at (202) 708–3815 (voice), (202) 708–1112 (TDD). These are not toll-free numbers. The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

F. Section 112 of the HUD Reform Act

Section 112 of the Housing and Urban Development Reform Act of 1989 (Reform Act) added a new Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence this award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 are at 24 CFR part 86. Any questions regarding the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–3000. Telephone: (202) 708–3815 (voice); (202) 708–1112 (TDD). These are not toll-free numbers. Forms necessary for compliance with the rule may be obtained from the local HUD Office.

F. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the HUD implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants or loans from using appropriated funds for lobbying

the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

Dated: July 7, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–17147 Filed 7–12–95; 8:45 am]

BILLING CODE 4210–33–P

federal register

Thursday
July 13, 1995

Part III

Department of the Interior

Bureau of Indian Affairs

Chemehuevi Indian Tribe Liquor Licensing Ordinance; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Chemehuevi Indian Tribe Liquor Licensing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. CHEM. R. 94–10–F, a resolution to repeal Tribal Ordinance No. 4, 7, 14, and 18, rescind Tribal Resolution 94–06–G, and adopt a new ordinance entitled ''Liquor License Ordinance,'' was duly adopted by the Chemehuevi Tribal Council of the Chemehuevi Indian Tribe of the Chemehuevi Reservation, California, on October 29, 1994. The Ordinance provides for the regulation of the sale, possession, consumption, distribution and manufacture of liquor in the area of Indian Country under the jurisdiction of the Chemehuevi Indian Tribe of California.

DATES: This ordinance is effective as of July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Branch of Judicial Services, Division of Tribal Government Services, 1849 C St., NW., Mail-Stop 2611–MIB, Washington, DC 20240–4001; Telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The Chemehuevi Indian Tribe Liquor Licensing Ordinance reads as follows:

Chemehuevi Liquor Licensing Ordinance

Section 1. Declaration of Findings. The Council hereby finds as follows:

1. Under the Constitution of the Tribe, the Council is charged with the duty of protecting the health, education, and general welfare of the Chemehuevi Indian Tribe.

2. The introduction, possession and sale of alcoholic beverages on the Chemehuevi Indian Reservation is a matter of special concern to the Tribe.

3. Federal law leaves to tribes the decision regarding when and to what extent alcoholic beverage transactions shall be permitted on Indian reservations.

4. Present day circumstances make a complete ban on alcoholic beverages within the Chemehuevi Indian Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over alcoholic beverage distribution.

5. The enactment of a tribal ordinance governing alcoholic beverage sales on the Chemehuevi Indian Reservation and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government of control the distribution, sale and possession of liquor on the Chemehuevi Indian Reservation, and at the same time will provide an important and urgently needed source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

Section 2. Declaration of Policy. The Council hereby declares that the policy of the Tribe is to eliminate the evils of unlicensed and unlawful manufacture, distribution, and sale of alcoholic beverages on the Chemehuevi Indian Reservation and to promote temperance in the use and consumption of alcoholic beverages increasing tribal control over the possession and distribution of alcoholic beverages on the Reservation.

Section 3. Repeal of Ordinance Number 18 and Adoption of Liquor Licensing Ordinance. To the extent not previously repealed either expressly or by implication, Ordinances Nos. 4, 7, 14, and 18 are hereby expressly repealed.

Liquor Licensing Ordinance

Chapters:

02 General Provisions
04 Definitions
06 Prohibition of the Unlicensed Sale of Liquor on the Reservation
08 Application for License
10 Issuance, Renewal, and Transfer of Licenses
12 Revocation of Licenses
14 Enforcement

Chapter 02

General Provisions

Sections:

02.010 Short title.
02.020 Purpose.
02.030 Sovereign immunity preserved.
02.040 Applicability within the reservation.
02.050 Interpretation and findings.
02.060 Conflicting provisions.
02.070 Application of 18 U.S.C. 1161.

02.010 Short Title. This ordinance shall be known and cited as the ''Chemehuevi Liquor Licensing Ordinance''.

02.020 Purpose. The purpose of this ordinance is to prohibit the importation, manufacture, distribution and sale of alcoholic beverages on the Chemehuevi Indian Reservation except pursuant to a license issued by the Chemehuevi Tribal Council under the provisions of this ordinance.

02.030 Sovereign immunity preserved. Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Chemehuevi Indian Tribe. No officer or employee of the Chemehuevi Indian Tribe is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this ordinance unless such officer or employee has an expressed and explicit written authorization from the Chemehuevi Tribal Council.

02.040 Applicability within the reservation. This ordinance shall apply to all persons within the exterior boundaries of the Chemehuevi Indian Reservation consistent with the applicable federal Indian liquor laws.

02.050 Interpretation and findings. The Chemehuevi Tribal Council in the first instance may interpret any ambiguities contained in this ordinance.

02.060 Conflicting provisions. Whenever any conflict occurs between the provisions of this ordinance or the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

02.070 Application of 18 U.S.C. 1161. The importation, manufacture, distribution and sale of alcoholic beverages on the Chemehuevi Indian Reservation shall be in conformity with this ordinance and in conformity with the laws of the State of California as that phrase or term is used in 18 U.S.C. § 1161.

Chapter 04

Definitions

Sections:

04.010 Interpretation.
04.020 Alcohol.
04.030 Alcoholic beverages.
04.040 Beer.
04.050 Distilled spirits.
04.060 Importer.
04.070 Liquor license.
04.080 Manufacturers.
04.090 Person.
04.100 Reservation.
04.110 Sale.
04.120 Seller.
04.130 Tribal Council.
04.140 Wine.

04.010 Interpretation. In construing the provisions of this ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

04.020 Alcohol. ''Alcohol'' means ethyl alcohol, hydrated oxide of ethyl,

or spirits of wine, from whatever source or by whatever process produced.

04.030 Alcoholic beverage. ''Alcoholic beverage'' includes all alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits wine or beer, and which contains one half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. It shall be interchangeable in this ordinance with the term ''liquor''.

04.040 Beer. ''Beer'' means any alcoholic beverage obtained by the fermentation of any infusion or decoction or barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer, and also includes sake, otherwise known as Japanese rice wine.

04.050 Distilled spirits. ''Distilled spirits'' means any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

04.060 Importer. ''Importer'' means any person who introduces alcohol or alcoholic beverages into the Chemehuevi Indian Reservation from outside the exterior boundaries of the Reservation for the purpose of sale or distribution within the Reservation, provided however, the term importer as used herein shall not include a wholesaler licensed by any state or tribal government selling alcoholic beverages to a seller licensed by a state or tribal government to sell at retail.

04.070 Liquor License. ''Liquor license'' means a license issued by the Chemehuevi Tribal Council under the provisions of this ordinance authorizing the sale, manufacture, or importation of alcoholic beverages on or within the Reservation consistent with federal law.

04.080 Manufacturer. ''Manufacturer'' means any person engaged in the manufacture of alcohol or alcoholic beverages.

04.090 Person. ''Person'' means any individual, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group, whether recognized by the United States Government or otherwise. The term shall also include the businesses of the Tribe. It shall be interchangeable in this ordinance with the term ''seller'' or ''licensee''.

04.100 Reservation. ''Reservation'' means all lands within the exterior boundaries of the Chemehuevi Indian Reservation and such other lands as may hereafter be acquired by the Tribe, whether within or without said boundaries, under any grant, transfer, purchase, gift, adjudication, executive order, Act of Congress, or other means of acquisition.

04.110 Sale. ''Sale'' means the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. It includes conditional sales contracts, leases with options to purchase, and any other contract under which possession of property is given to the purchaser, buyer, or consumer but title is retained by the vendor, retailer, manufacturer, or wholesaler, as security for the payment of the purchase price. Specifically, it shall include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages pursuant to an order placed for the purchase of such beverages, or soliciting or receiving such beverages.

04.120 Seller. ''Seller'' means any person who, while within the exterior boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

04.130 Tribal Council. ''Tribal Council'', or ''Council'' means the Chemehuevi Tribal Council.

04.140 Wine. ''Wine'' means the product obtained from the normal alcoholic fermentation of the juice of the grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made, and other rectified wine products.

Chapter 06

Prohibition of the Unlicensed Sale of Liquor

Sections:

06.010 Prohibition of the unlicensed sale of liquor.
06.020 Authorization to sell liquor.
06.030 Types of licenses.

06.010 Prohibition of the unlicensed sale of liquor. No person shall import for sale, manufacture, distribute or sell any alcoholic beverages within the reservation without first applying for and obtaining a written license from the Council issued in accordance with the provisions of this ordinance.

06.020 Authorization to sell liquor. Any person applying for and obtaining a liquor license under the provisions of this ordinance shall have the right to engage only in those liquor transactions expressly authorized by such license and only at those specific places or areas designated in said license.

06.030 Types of licenses. The Council shall have the authority to issue the following types of liquor licenses within the reservation:

A. ''Retail on-sale general license'' means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license.

B. ''Retail on-sale beer and wine license'' means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license.

C. ''Retail off-sale general license'' means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

D. ''Retail off-sale beer and wine license'' means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

E. ''Manufacturers license'' means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the reservation.

Chapter 08

Applications for Licenses

Sections:

08.010 Application form and content.
08.020 Fee accompanying application.
08.030 Investigation; denial of application.

08.010 Application form and content. An application for a license shall be made to the Council and shall contain the following information:

A. The name and address of the applicant. In the case of a corporation, the names and addresses of all of the principal officers, directors and stockholders of the corporation. In the case of a partnership, the name and address of each partner.

B. The specific area, location and/or premises for which the license is applied for.

C. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).

D. Whether the applicant has a state liquor license.

E. A statement by the applicant to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this ordinance or any of the provisions of the California Alcoholic Beverage Control Act.

F. The signature and fingerprint of the applicant. In the case of a partnership, the signature and fingerprint of each partner. In the case of a corporation, the signature and fingerprint of each of the officers of the corporation under the seal of the corporation.

G. The application shall be verified under oath, notarized and accompanied by the license fee required by this ordinance.

08.020 Fee accompanying application. The Council shall by resolution establish a fee schedule for the issuance, renewal and transfer of the following types of licenses:

A. Retail on-sale general license;

B. Retail on-sale beer and wine license;

C. Retail off-sale general license;

D. Retail off-sale beer and wine license; and

E. Manufacturers license.

08.030 Investigation; denial of application. Upon receipt of an application for the issuance, transfer or renewal of a license and the application fee required herein, the Council shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify for a license and whether the provisions of this ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The Council shall deny an application for issuance, renewal or transfer of a license if either the applicant or the premises for which a license is applied for does not qualify for a license under this ordinance.

The Council further may deny any application for issuance, renewal or transfer of a license if the Council cannot make the findings required by Section 10.20 of this Ordinance or the Council finds that the issuance of such a license would tend to create a law enforcement problem, or if the applicant has misrepresented any facts in the application or given any false information to the Council in order to obtain a license.

Chapter 10

Issuance, Renewal and Transfer of Licenses

Sections:

10.010 Public hearing.
10.020 Council action on the application.
10.030 Multiple locations.
10.040 Calendar year time limit.
10.050 Transfer of licenses.

10.010 Public hearing. Upon receipt of an application for issuance, renewal or transfer of a license, and the payment of all fees required under this ordinance, the Secretary of the Council shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least ten (10) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the Reservation. The notice published in the newspaper shall include the name of the applicant and the type of license applied for and a general description of the area where liquor will be sold. At the hearing, the Council shall hear from any person who wishes to speak for or against the application. The Council shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

10.020 Council action on the application. Within thirty (30) days of the conclusion of the public hearing, the Council shall act on the matter. The Council shall have the authority to deny, approve or approve with conditions the application. Before approving the application, the Council shall find: (1) that the site for the proposed premises has adequate parking, lighting, security and ingress and egress so as not to adversely affect adjoining properties or businesses, and (2) that the sale of alcoholic beverages at the proposed premises is consistent with the Tribe's Zoning Ordinance.

Upon approval of an application, the Council shall issue a license to the applicant in a form to be approved from time to time by the Council by resolution. All businesses shall post their tribal liquor licenses issued under this ordinance in a conspicuous place upon the premises where alcoholic beverages are sold, manufactured or offered for sale.

10.030 Multiple locations. Each license shall be issued to a specific person. Separate licenses shall be issued for each of the premises of any business establishment having more than one location. In the case of the sale of alcoholic beverages on boats a separate license shall be issued for each boat regardless of the fact that the boats are moored at one location or owned by one person.

10.040 Term of license. Temporary licenses. All licenses issued by the Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the Council may issue special licenses for the sale of alcoholic beverages on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee to be established by the Council by resolution.

10.050 Transfer of licenses. Each license issued or renewed under this ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Council. The Council shall have the authority to approve, deny or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under Section 08.010 of this ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

Chapter 12

Revocation of Licenses

Sections:

12.010 Revocation of license.
12.020 Accusations.
12.030 Hearing.

12.010 Revocation of license. The Council shall revoke a license upon any of the following grounds:

A. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.

B. The violation of any condition imposed by the Council on the issuance, transfer or renewal of a license.

C. A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors.

D. The violation of any tribal ordinance.

E. The failure to take reasonable steps to correct objectionable conditions on the licensed premises or any immediate adjacent area leased, assigned or rented by the licensee constituting a nuisance within a reasonable time after receipt of

a notice to make such corrections has been received from the Council or its authorized representative.

12.020 Accusations. The Council on its own motion through the adoption of an appropriate resolution meeting the requirements of this section or any person may initiate revocation proceedings by filing an accusation with the Secretary of the Council. The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this ordinance which would authorize the Council to revoke the license or licenses of the licensee against whom the accusation is made. Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the Council. Thirty (30) days prior to the date set for the hearing, the Secretary shall mail a copy of the accusation along with a notice of the day and time of the hearing before the Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee ten (10) days prior to the hearing date.

12.030 Hearing. Any hearing held on any accusation shall be held before a majority of the Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Council. The Council shall render its decision within sixty (60) days after the date of the hearing. The decision of the Council shall be final and non-appealable.

Chapter 14

Enforcement

Sections:

14.010 General penalties.
14.020 Initiation of action.

14.010 General penalties. Any person adjudged to be in violation of this ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars ($500.00) for each such violation. The Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars ($500.00) limitation set forth above. The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed under a separate ordinance adopted by the Council.

The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate Chapter or provision of this Ordinance or by a separate ordinance of the Chemehuevi Tribal Code.

14.020 Initiation of action. Any violation of this ordinance shall constitute a public nuisance. The Council may initiate and maintain an action in tribal court or any court of competent jurisdiction to abate and permanently enjoin any nuisance declared under this ordinance. Any action taken under this section shall be in addition to any other penalties provided for this ordinance.

Section 4. Severability. If any part or provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this ordinance are severable.

Section 5. Effective Date. This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register**.

Dated: July 6, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–17190 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
July 13, 1995

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32

Addition of Ottawa National Wildlife Refuge to the List of Open Areas for Big Game Hunting in Ohio; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD31

Addition of Ottawa National Wildlife Refuge to the List of Open Areas for Big Game Hunting in Ohio

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Ottawa National Wildlife Refuge to the list of areas open for big game hunting in Ohio along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before September 11, 1995.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Esq., at the address above; Telephone: 703–358–1744.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, consistent with the principles of sound wildlife management, and otherwise be in the public interest. This rulemaking proposes to open Ottawa National Wildlife Refuge to big game (white-tailed deer) hunting.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its ''openings package'' for Regional review and approval from the Washington Office the following documents: A hunting/fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or its critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, it has been determined that the opening of the Ottawa National Wildlife Refuge to big game hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, it has been also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the hunting program is as follows:

Ottawa National Wildlife Refuge

The Ottawa National Wildlife Refuge (NWR) is situated on the southwestern edge of Lake Erie in what was once part of a 300,000 acre forested wetland known as the Great Black Swamp. Approximately 10% of the original habitat exists—mostly as modified, impounded wetland units formerly owned by agricultural or sport-hunting interests. Ottawa NWR was established on July 28, 1961, with land acquired under the authority of the Migratory Bird Conservation Act. The primary purpose of the refuge is for use as an inviolate sanctuary, or for any other management purpose, and for administration of areas of land, water, or interest therein to conserve and protect migratory birds in accordance with treaty obligations * * * and [to conserve] other species of wildlife found therein, including adequate wildlife habitat.

The total refuge acreage is 8,318 acres of which 5,350 acres are either open pools, marsh, or moist soil units. The remaining acreage is a mixture of grassland and shrubland, fallow fields, wet meadows, forests (310 acres), and croplands (600 acres).

Ottawa NWR is an important migration stopover for migratory birds. The refuge bird list contains 267 normally observed species. The refuge supports 32 native mammal species along with 53 indigenous amphibian and reptile species.

Public hunting is to be used primarily as a management tool for balancing the white-tailed deer population objectives with other wildlife objectives, thereby inhibiting this species from impacting the quality of vegetative habitat. In addition, the proposed hunt will provide limited public hunting opportunities on the refuge. The deer population estimate at the refuge was determined from a winter helicopter survey. The refuge estimates indicate that the current deer population is at 47.3 deer per square mile. In Ohio, the buck harvest estimates indicate a pre-harvest density for Lucas and Ottawa counties of 0.6 and 0.9 deer per square mile. The refuge population estimate is 315% above the upper end of average densities reported for the agricultural Midwest region. Wildlife managers expend a lot of time and money responding to deer-vehicle accident and crop depredation complaints. Without a hunting program specifically used as a management tool, the refuge deer population may degrade habitat quality not only for that population but other important species. Controlled access, blind placement and hunting opportunity in designated management zones and seasonal restrictions will limit human disturbance of wildlife and

provide wildlife a refuge interior sanctuary.

Opening the refuge to big game hunting has been found to be compatible in a separate compatibility determination. The hunting program will be reviewed annually to ensure that a harvestable surplus of animals exist, and that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. It was determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunt. During the preparation of the environmental assessment, biologists and management personnel within the Ohio Division of Wildlife were consulted. Comments were solicited from the public during the draft environmental assessment phase. Articles on this assessment were carried in the local newspapers and sent to Federal, State and local legislators and conservation groups.

The Service has determined that there would be sufficient funds to administer the proposed hunt. Sufficient funds would be available within the refuge unit budget to operate such a hunt as proposed.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While there would be an increase in the sale of firearms, ammunition, hunting gear, etc., this proposed rule would have minimal effect on such entities as this is not a big hunting program and hunting is otherwise allowed in surrounding areas.

Federalism

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

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessments, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species.

Primary Author. Duncan L. Brown, Esq., Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 32—-[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.54 *Ohio* is amended by revising paragraph C. of Ottawa National Wildlife Refuge to read as follows:

§ 32.54 Ohio.

* * * * *

Ottawa National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Permits are required.
2. Hunters are required to check in and out of the refuge each day that they hunt.
3. No shooting from refuge roads or dikes is permitted.

* * * * *

Dated: June 15, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17193 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–55–P

federal register

Thursday
July 13, 1995

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32

Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD27

Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Deep Fork National Wildlife Refuge to the list of areas open for sport fishing in Oklahoma along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before September 11, 1995.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Esq., at the address above; Telephone: 703–358–1744.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open Deep Fork National Wildlife Refuge to sport fishing.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Director administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its ''openings package'' for Regional review and approval from the Washington Office the following documents: a management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, it has been determined that the opening of the Deep Fork National Wildlife Refuge to sport fishing is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, it has been also determined that this opening for sport fishing is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the fishing program is as follows:

Deep Fork National Wildlife Refuge

The legislature of Oklahoma passed H.B. 1904 on May 17, 1990, authorizing the Fish and Wildlife Service (Service) to acquire and develop a national waterfowl refuge in Okmulgee County, Oklahoma. Accordingly, Deep Fork National Wildlife Refuge was established on June 30, 1993, under the authority of the Emergency Wetlands Resources Act of 1986 (P.L. 99–645, 100 Stat. 3582). The refuge acreage totals 6,801 currently; however, an established acquisition boundary would eventually include 16,104 acres. The refuge is located along the Deep Fork River in Oklahoma. Recognized as a nationally important ecosystem, the Deep Fork River is listed in the Lower Mississippi Valley Joint Venture of the North American Waterfowl Management Plan (NAWMP) as an area of wetland habitat critical to the waterfowl of the Central Flyway.

Acquisition of refuge land is supported by the Eastern Oklahoma Wetlands Plan which is Oklahoma's implementation plan for the NAWMP. The Deep Fork River is also one of 17 priority-one sites listed in the 1985 Texas and Oklahoma Land Protection Plan. It has also been identified as the number one wetland site in Oklahoma in the Regional Wetlands Concept Plan.

The purposes of the refuge are to contribute to the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions. (16 U.S.C. 3901(b))(Emergency Wetlands Resources Act of 1986).

The Deep Fork National Wildlife Refuge is located in the Deep Fork River Basin, upstream from Eufaula Reservoir. The majority of the area contains palustrine forested wetlands. Bottomland hardwood forests occur along the Deep Fork River and the many creeks which enter it. Scrub-shrub wetlands occur in the overflow areas. The uplands have deciduous forest composed primarily of post oak and blackjack. Numerous sloughs exist along the river channel. Some of the sloughs exceed four feet in depth.

The numerous wetlands along the Deep Fork River are rich in diversity of wildlife. A total of 147 species of birds (8 game and 139 non-game) occur in the bottomland forest and the associated wetlands. The sloughs and open wetlands support great blue herons, little blue herons, and snowy egrets. Raptors, woodpeckers, and passerine birds utilize the area. The bald eagle is the only known endangered species to occur on the area. Fifty-one species of mammals have been recorded in the Deep Fork Basin. Furbearer populations are considered to be among the highest in the State. The Deep Fork River

provides feeding and spawning habitat for a variety of fish native to east central Oklahoma. Channel catfish, blue catfish, flathead catfish, crappie, white bass, and largemouth bass are the most important economically. Carp are common in the river. Carp and catfish are also found in the sloughs and wetlands along the river as a result of floods.

Sport fishing was addressed in the environmental assessment for land acquisition as a desirable activity and was listed in the Oklahoma legislation authorizing the Service to establish the refuge. Opening the area to sport fishing will aid in meeting the general refuge objective of wildlife oriented recreation. There is significant demand in the local community for sport fishing, and it is anticipated that there would be approximately 3,500 use-days of sport fishing annually at the refuge.

It is proposed that bank fishing be allowed on the refuge year-round. Fishing would be permitted on the sloughs separated from the river from March 1 through September 30 with pole and line only. The use of firearms would be prohibited. The public would be allowed to bank fish along the Deep Fork River within the refuge boundary. They would also be permitted to launch small boats. Improved boat ramps would not be available. Only small hand-powered boats or canoes would be launched from the bank. Signs would be placed at major access points showing the fishing regulations. In addition, maps and printed refuge-specific regulations would be available. The refuge views this initial sport fishing program as ''interim,'' as further acquisition within the refuge boundary will require revisions to the plan in the future.

Target species will include channel catfish, flathead catfish, blue catfish, crappie, white bass, and largemouth bass. The Oklahoma Department of Wildlife Conservation has established daily possession limits and means of taking to protect individual species. Refuge-specific regulations, as proposed, are consistent with state regulations which will be observed on the refuge.

Opening the refuge to fishing has been found to be compatible in a separate compatibility determination. The fishing program will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. It was determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the fishing program.

The Service has determined that there would be sufficient funds to administer the proposed fishing program. Sufficient funds would be available within the refuge unit budget to operate such a fishing program as proposed.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the proposed fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact would not be considered significant as other surrounding areas are, also, open to fishing and the addition of the refuge to fishing waters would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

Federalism

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

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species.

Primary Author. Duncan L. Brown, Esq., Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 List of refuge units open to hunting and/or fishing.

2. Section 32.7 *List of refuge units open to hunting and/or fishing* is amended by adding the alphabetical listing of ''Deep Fork National Wildlife Refuge'' under the state of Oklahoma.

3. Section 32.55 *Oklahoma* is amended by adding the alphabetical listing of Deep Fork National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Deep Fork National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved.]

B. Upland Game Hunting. [Reserved.]

C. Big Game Hunting. [Reserved.]

D. Sport Fishing. Sport fishing for channel catfish, flathead catfish, blue catfish, crappie, white bass, and large mouth bass is permitted on designated areas of the refuge pursuant to the following conditions:

1. Bank fishing is permitted year-round on the Deep Fork River. Bank fishing with pole and line is permitted from March 1 through September 30 on the sloughs separated from the Deep Fork River.

2. Boats may be launched on the refuge from access points designated in the refuge leaflet. Only small boats or canoes will be permitted.

3. The use of firearms is prohibited.

* * * * *

Dated: June 12, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17191 Filed 7–12–95; 8:45 am]

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