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WASHINGTON, DC

[Three Sessions]

WHEN:	November 14 at 9:00 am November 28 at 9:00 am December 5 at 9:00 am
WHERE:	Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS:	202–523–4538

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

Rules and Regulations

Federal Register
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Tuesday, November 7, 1995

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–196–AD; Amendment 39–9422; AD 95–23–01]

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires inspections to detect cracking, corrosion, and free play in the spherical washers located in certain assemblies where the aft flap track attaches to the wing trailing edge, and replacement of the washers, if necessary. This amendment is prompted by reports indicating that these washers can break under load. The actions specified in this AD are intended to prevent breakage of these washers, which could result in structural damage to the attachment assembly and eventually lead to separation of the flap from the airplane.

DATES: Effective November 22, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 22, 1995.

Comments for inclusion in the Rules Docket must be received on or before January 8, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–196–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles D. Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that there has been a report of a broken spherical washer found in the rear flap track-to-wing attachment assembly at track 4 on a production Model A330 series airplane prior to delivery. The cause of the breakage has been attributed to stress fracture when the washer was under load. If the washer breaks, the load is transferred to two fail-safe bolts. Although the flaps are still operable in this condition, the fail-safe bolts are able to withstand the load only for a limited period of time. Failure of these two bolts could result in the separation of the affected flap from the airplane. This condition, if not corrected, could adversely affect the controllability of the airplane. Additionally, the departing flap could pose a hazard to people and/or property on the ground.

The spherical washers that are subject to breakage are installed on Model A330 and A340 series airplanes at the rear flap track-to-wing trailing edge attachment assemblies on tracks 2 to 5 (left-hand and right-hand).

Airbus has issued Service Bulletin A330–57–3016 (for Model A330 series airplanes), and Service Bulletin A340–57–4033 (for Model A340 series airplanes), both dated April 26, 1995. These service bulletins describe procedures for conducting repetitive visual inspections to detect cracking, corrosion, or free play in the spherical washer installed at the aft flap track-to-wing trailing edge attachment assemblies at tracks 2 to 5 (left-hand and right-hand). If any of these discrepancies are found, the washer must be replaced prior to further flight. The DGAC classified these service bulletins as mandatory and issued French airworthiness directives (CN) 95–129–013(B) applicable to Model A330 series airplanes, and CN 95–130–024(B) applicable to Model A340 series airplanes, both dated July 1, 1995, in order to assure the continued airworthiness of these airplanes in France.

Airbus has also issued Service Bulletin A330–57–3016 (for Model A330 series airplanes) and Service Bulletin A340–57–4021 (for Model A340 series airplanes), both dated April 26, 1995. These service bulletins describe procedures for replacing the spherical washers installed at the aft flap track-to-wing trailing edge attachment assemblies with new spherical washers. These new washers are manufactured from a different material having modified tolerances, and will provide improved strength so as to minimize the risk of stress cracking. The DGAC classified these service bulletins as ''recommended.''

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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, this AD is being issued to prevent breakage of the spherical washers installed at the aft flap track-to-wing trailing edge attachment assembly, which could result in structural damage to the attachment and eventually lead to separation of the flap from the airplane. This AD requires repetitive visual inspections to detect cracking, corrosion, or free play in the spherical washer installed at the aft flap track-to-

wing trailing edge attachment assemblies at tracks 2 to 5 (left-hand and right-hand), and replacement of washers showing any of these discrepancies. This AD also provides for an optional terminating action for the repetitive inspections, consisting of replacement of all of the washers with improved washers. The actions are required to be accomplished in accordance with the service bulletins described previously.

None of the Model A330 or A340 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 36 work hours to accomplish the required inspections, at an average labor charge of $60 per work hour. Based on these figures, the total cost impact of this AD would be $2,160 per airplane per inspection.

Should an operator elect to accomplish the optional terminating action (replacement of washers), it would require approximately 38 work hours to accomplish, at an average labor charge of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the optional terminating action would be $2,280 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–196–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

95–23–01 Airbus: Amendment 39–9422. Docket 95–NM–196–AD.

Applicability: Model A330–301 series airplanes, having manufacturer's serial numbers (MSN) 0030, 0037, 0045, 0054, 0055, 0059, and 0070, on which Airbus Modification 43222D40126 has not been installed; Model A340 –211, –212, –311, and –312 series airplanes, having MSN 0005 through 0009 inclusive, 0011, 0012 through 0016 inclusive, 0018 through 0029 inclusive, 0031 through 0033 inclusive, 0056 through 0058 inclusive, 0063, and 0074 through 0076 inclusive, on which Airbus Modification 43222D40126 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (c) 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 failure of the spherical washers installed at the aft flap track attachment to the wing trailing edges, which could result in structural damage to the attachment and eventually lead to separation of the flap from the airplane, accomplish the following:

(a) Prior to the accumulation of 3,500 total flight cycles, or within 7 days after the effective date of this AD, whichever occurs later, conduct a visual inspection to detect cracking, corrosion, or free play in the spherical washer located at the aft flap track-to-wing trailing edge attachment assemblies at tracks 2 through 5 (left-hand and right-hand), in accordance with Airbus Service Bulletin A330–57–3029, dated, April 26, 1995, for Model A330 series airplanes; or Airbus Service Bulletin A340–57–4033,

dated April 26, 1995, for Model A340 series airplanes; as applicable.

(1) If no discrepancy is detected, repeat the inspection thereafter at intervals not to exceed 3,500 flight cycles.

(2) If any discrepancy is detected, prior to further flight, replace the spherical washer with a serviceable spherical washer in accordance with the applicable service bulletin. Thereafter, repeat the inspection at intervals not to exceed 3,500 flight cycles.

(b) Terminating action for the requirements of this AD consists of the replacement of all spherical washers located at the aft flap track-to-wing trailing edge attachment assemblies at tracks 2 through 5 (left-hand and right-hand) with improved spherical washers, in accordance with Airbus Service Bulletin A330–57–3016, dated April 26, 1995, for Model A330 series airplanes; or Airbus Service Bulletin A340–57–4021, dated April 26, 1995, for Model A340 series airplanes.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

(e) The inspections shall be done in accordance with Airbus Service Bulletin A330–57–3029, dated, April 26, 1995, for Model A330 series airplanes; or Airbus Service Bulletin A340–57–4033, dated April 26, 1995, for Model A340 series airplanes; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on November 22, 1995.

Issued in Renton, Washington, on October 30, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–27307 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 95–96]

Annual User Fee for Customs Broker Permit; General Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of due date for broker user fee.

SUMMARY: This is to advise Customs brokers that for 1996 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association or corporate broker is due by January 16, 1996. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 16, 1996.

FOR FURTHER INFORMATION CONTACT: Gary Rosenthal, Entry (202) 927–0380.

SUPPLEMENTARY INFORMATION: Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub.L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker permit held by an individual, partnership, association, or corporation. This fee is set forth in the Customs Regulations in section 111.96 (19 CFR 111.96).

Section 111.96, Customs Regulations, provides that the fee is payable for each calendar year in each Broker district where the broker was issued a permit to do business by the due date which will be published in the Federal Register annually. Broker districts are defined in the General Notice published in the Federal Register, Volume 60, No. 187, Wednesday, September 27, 1995.

Section 1893 of the Tax Reform Act of 1986 (Pub.L. 99–514), provides that notices of the date on which a payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the Federal Register by no later than 60 days before such due date. This document notifies brokers that for 1996, the due date for payment of the user fee is January 16, 1996. It is expected that annual user fees for brokers for subsequent years will be due on or about the third of January of each year.

Dated: November 1, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–27529 Filed 11–6–95; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

26 CFR Part 1

[TD 8627]

RIN 1545–AN87

Limitation on Use of Deconsolidation To Avoid Foreign Tax Credit Limitations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain limitations on the amount of the foreign tax credit under section 904(i). The final regulations will affect the sourcing and foreign tax credit separate limitation character of income for purposes of the calculation of the foreign tax credit by certain related domestic corporations. The final regulations are necessary to prevent avoidance of the foreign tax credit limitations.

DATES: These regulations are effective January 1, 1994.

For dates of applicability, see § 1.904(i)–1(e) of these regulations.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Allison, 202–622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final Income Tax Regulations (26 CFR part 1) under section 904 of the Internal Revenue Code.

On May 17, 1994, a notice of proposed rulemaking (INTL–0006–90) relating to the foreign tax credit limitation imposed under section 904(i) was published in the Federal Register (59 FR 25584) (1994–1 C.B. 816).

Written comments responding to this notice were received. A public hearing was requested and held on October 17, 1994. After consideration of all the comments, the proposed regulations under section 904(i) are adopted as revised by this Treasury decision. The final regulations are substantially as proposed. The preamble to the proposed regulations contains a discussion of the provisions.

Explanation of Revisions and Summary of Comments

Common Parent of an Extended Affiliated Group

Section 1.904(i)–1(b)(1)(i)(B)(1) of the proposed regulations defined affiliates to include certain domestic corporations ultimately owned 80 percent or more by entities that are not includible

corporations. The final regulations are modified to require that the domestic corporations be ultimately owned by a common parent that is a corporation.

Commentators suggested that Congress did not intend to apply the rules of this section to domestic subsidiaries of a common foreign parent. However, section 904(i)(1) states that domestic corporations are affiliates under section 904(i) if those corporations would be affiliates under section 1504(a) without the exclusions contained in section 1504(b). Without the exclusion of foreign corporations under section 1504(b)(3), multiple chains of domestic corporations owned 80% or more by a foreign common parent would be affiliates under section 1504(a). Thus, it is clear that Congress intended broad application of this provision to structures such as those with foreign common parents. The examples in the legislative history using domestic common parents are merely illustrative. Therefore, no change to § 1.904(i)–1(b)(1)(i)(B)(1) was made in the final regulations in response to this comment.

Commentators suggested that the final regulations should be effective only for taxable years beginning after May 17, 1994, the publication date of the proposed regulations, for structures with a foreign common parent. Commentators also suggested that final regulations should not be applied to foreign common parent structures in existence prior to the enactment of section 904(i). The statute provides authority to address all structures, including foreign common parent structures. Therefore, no change in the effective date was made and no grandfather clause added with respect to such foreign common parent structures.

Determination of Taxable Income

Commentators requested clarification whether provisions such as §§ 1.861–11T and 1.861–14T, as well as the consolidated return provisions, apply to determine the taxable income of an affiliate in a separate category.

Section 1.904(i)–1(a)(1)(i) of the final regulations provides that each affiliate must determine its net taxable income or loss in each separate category, as defined in § 1.904–5(a)(1) and treating U.S. source income or loss as a separate category. In general, an affiliate may not use the consolidated return regulations in computing net taxable income or loss in each separate category. However, a consolidated group is treated as one affiliate, and such affiliate must use the consolidated return regulations (without regard to sections 904(f) and 907(c)(4)) in computing the affiliate's net taxable income or loss in each separate category. To the extent applicable in the absence of section 904(i) and these regulations, other provisions of the Code and regulations will be used in the determination of an affiliate's net taxable income or loss in a separate category under § 1.904(i)–1(a)(1)(i).

Section 1.904(i)–1(a)(1)(ii) of the final regulations states that each affiliate's net income in a separate category will be combined with net income of all other affiliates in the same separate category. However, net losses in a separate category are combined with other affiliates' income or loss in the same category, under § 1.904(i)–1(a)(1)(ii), only to the extent that the affiliate's net loss in the separate category offsets taxable income, whether U.S. or foreign source, of the affiliate with the net loss. The consolidated return provisions dealing with sections 904(f) and 907(c)(4) are then applied to the combined amounts in each separate category as if all affiliates were members of a single consolidated group.

Allocation Methods

The proposed regulations required that allocation be accomplished under ''any consistently applied reasonable method.'' Several commentators raised questions about the appropriateness of certain allocation methods. The final regulations adopt the proposed standard but have been clarified to provide that the determination of the reasonableness of a method is based on all of the facts and circumstances.

Section 1.904(i)–1(a) of the proposed regulations required consistent application of the allocation method chosen. Commentators requested clarification as to whether this consistency rule requires the same allocation method to be used by each affiliate or whether, instead, the rule requires consistency in the choice of an allocation method from year to year. The final regulations clarify that a method is consistently applied only if used by all affiliates from year to year. Once chosen, an allocation method may be changed only with the consent of the Commissioner.

Deemed Distributions

One comment noted that if a domestic corporation, affiliated by virtue of section 904(i) with another domestic corporation, makes a payment to that other domestic corporation in order to compensate the other corporation for an increase in its U.S. income tax as a result of the application of section 904(i), the payment may be a constructive dividend to a foreign parent, followed by a contribution to capital to the other domestic corporation. It was suggested that the rules of § 1.1502–33(d) be applied by the section 904(i) regulations to allow affiliates that have altered tax liabilities due to the effect of section 904(i) to allocate that liability among the expanded affiliated group without triggering a constructive dividend. The final regulations clarify that the consolidated return regulations, including § 1.1502–33(d), generally are not applicable to the extended affiliated group.

Consistency in Choice of Taxable Year

One commentator questioned whether year-to-year consistency in the choice of the base taxable year for the extended affiliated group is required under § 1.904(i)–1(c) of the proposed regulations, and whether the taxpayer must secure the permission of the Service to alter that choice. Failure to require consistency would permit the matching of affiliates' taxable years in the most advantageous manner each year and allow an expanded group to delay the affiliation of each newly acquired corporation, under § 1.904(i)–1(b)(1)(iii), for the maximum period of time. The final regulations clarify that the taxable year chosen must be used consistently from year to year, and may be changed only with the Commissioner's consent.

Consolidated Group Considered a Single Affiliate

The final regulations, in § 1.904(i)–1(b)(1)(ii), clarify that a consolidated group, the members of which are affiliates under this section, will be treated as a single affiliate for purposes of this section. Thus, for example, the computations under § 1.904(i)–1(a)(1)(i) by a consolidated group of affiliates will produce one set of calculations with respect to each separate category of foreign source taxable income or loss for the consolidated group.

Exception for Newly Acquired Affiliates

Section 1.904(i)–1(b)(1)(ii) of the proposed regulations stated that ''[a]n includible corporation will not be considered an affiliate of another includible corporation during *its* taxable year beginning before the date on which the first includible corporation first becomes an affiliate with respect to that other includible corporation.''[emphasis added]. A commentator questioned the identity of the corporation referenced by the emphasized ''its''. The final regulations, in renumbered § 1.904(i)–1(b)(1)(iii)(A), clarify that the reference is to the new affiliate.

Because of this ambiguity in § 1.904(i)–1(b)(1)(ii) of the proposed regulations, taxpayers may have lacked sufficient notice of the Service's interpretation of that provision. For this reason, includible corporations acquired from unrelated third parties prior to the thirty-first day after the publication of the regulations will be considered an affiliate on a date that is consistent with any reasonable interpretation of § 1.904(i)–1(b)(1)(ii) of the proposed regulations. Therefore, § 1.904(i)–1(b)(1)(iii)(A) will only apply to acquisitions of affiliates after December 7, 1995. With respect to acquisitions on or before December 7, 1995, § 1.904(i)–1(b)(1)(iii)(B) will apply.

It has also been clarified that the exception only applies to acquisitions from unrelated third parties and does not apply where the acquisition of the new affiliate is used to avoid the application of section 904(i). Both of these clarifications apply to any acquisition of an includible corporation after December 31, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the information that follows. These regulations affect related domestic corporations not electing to file a consolidated return, or ineligible to file a consolidated return for all of the domestic corporations because of the existence of nonincludible entities. It is assumed that a substantial number of small entities do not operate in such structures. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small businesses.

Need for Final Regulations

This regulation, when adopted, would apply to taxable years of affiliates beginning after December 31, 1993. The final regulations will clarify the law in this area and will provide taxpayers with needed immediate guidance. The effective date is also necessary to prevent avoidance of tax. This regulation is not being issued subject to the effective date limitation of section 553(d) of 5 U.S.C.

Drafting Information

The principal author of these regulations is Kenneth D. Allison of the Office of Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *

Section 1.904(i)–1 also issued under 26 U.S.C. 904(i). * * *

Par. 2. Section 1.904–0 is amended by:

1. Revising the introductory text.
2. Adding an entry for § 1.904(i)–1.

The revision and addition read as follows:

§ 1.904–0 Outline of regulation provisions for section 904.

This section lists the regulations under section 904 of the Internal Revenue Code of 1986.

* * * * *

§ 1.904(i)–1 Limitation on use of deconsolidation to avoid foreign tax credit limitations.

(a) General rule.
(1) Determination of taxable income.
(2) Allocation.
(b) Definitions and special rules.
(1) Affiliate.
(i) Generally.
(ii) Rules for consolidated groups.
(iii) Exception for newly acquired affiliates.
(2) Includible corporation.
(c) Taxable years.
(d) Consistent treatment of foreign taxes paid.
(e) Effective date.

Par. 3. Section 1.904(i)–1 is added to read as follows:

§ 1.904(i)–1 Limitation on use of deconsolidation to avoid foreign tax credit limitations.

(a) *General rule.* If two or more includible corporations are affiliates, within the meaning of paragraph (b)(1) of this section, at any time during their taxable years, then, solely for purposes of applying the foreign tax credit provisions of section 59(a), sections 901 through 908, and section 960, the rules of this section will apply.

(1) *Determination of taxable income*—(i) Each affiliate must compute its net taxable income or loss in each separate category (as defined in § 1.904–5(a)(1), and treating U.S. source income or loss as a separate category) without regard to sections 904(f) and 907(c)(4). Only affiliates that are members of the same consolidated group use the consolidated return regulations (other than those under sections 904(f) and 907(c)(4)) in computing such net taxable income or loss. To the extent otherwise applicable, other provisions of the Code and regulations must be used in the determination of an affiliate's net taxable income or loss in a separate category.

(ii) The net taxable income amounts in each separate category determined under paragraph (a)(1)(i) of this section are combined for all affiliates to determine one amount for the group of affiliates in each separate category. However, a net loss of an affiliate (first affiliate) in a separate category determined under paragraph (a)(1)(i) of this section will be combined under this paragraph (a) with net income or loss amounts of other affiliates in the same category only if, and to the extent that, the net loss offsets taxable income, whether U.S. or foreign source, of the first affiliate. The consolidated return regulations that apply the principles of sections 904(f) and 907(c)(4) to consolidated groups will then be applied to the combined amounts in each separate category as if all affiliates were members of a single consolidated group.

(2) *Allocation.* Any net taxable income in a separate category calculated under paragraph (a)(1)(ii) of this section for purposes of the foreign tax credit provisions must then be allocated among the affiliates under any consistently applied reasonable method, taking into account all of the facts and circumstances. A method is consistently applied if used by all affiliates from year to year. Once chosen, an allocation method may be changed only with the consent of the Commissioner. This allocation will only affect the source and foreign tax credit separate limitation character of the income for purposes of the foreign tax credit separate limitation of each affiliate, and will not otherwise affect an affiliate's total net income or loss. This section applies whether the federal income tax consequences of its application favor, or are adverse to, the taxpayer.

(b) *Definitions and special rules*—For purposes of this section only, the following terms will have the meanings specified.

(1) *Affiliate*—(i) *Generally.* Affiliates are includible corporations—

(A) That are members of the same affiliated group, as defined in section 1504(a); or

(B) That would be members of the same affiliated group, as defined in section 1504(a) if—

(*1*) Any non-includible corporation meeting the ownership test of section 1504(a)(2) with respect to any such includible corporation was itself an includible corporation; or

(*2*) The constructive ownership rules of section 1563(e) were applied for purposes of section 1504(a).

(ii) *Rules for consolidated groups.* Affiliates that are members of the same consolidated group are treated as a single affiliate for purposes of this section. The provisions of paragraph (a) of this section shall not apply if the only affiliates under this definition are already members of the same consolidated group without operation of this section.

(iii) *Exception for newly acquired affiliates*—(A) With respect to acquisitions after December 7, 1995, an includible corporation acquired from unrelated third parties (First Corporation) will not be considered an affiliate of another includible corporation (Second Corporation) during the taxable year of the First Corporation beginning before the date on which the First Corporation originally becomes an affiliate with respect to the Second Corporation.

(B) With respect to acquisitions on or before December 7, 1995, an includible corporation acquired from unrelated third parties will not be considered an affiliate of another includible corporation during its taxable year beginning before the date on which the first includible corporation first becomes an affiliate with respect to that other includible corporation.

(C) This exception does not apply where the acquisition of an includible corporation is used to avoid the application of this section.

(2) *Includible corporation.* The term *includible corporation* has the same meaning it has in section 1504(b).

(c) *Taxable years.* If all of the affiliates use the same U.S. taxable year, then that taxable year must be used for purposes of applying this section. If, however, the affiliates use more than one U.S. taxable year, then an appropriate taxable year must be used for applying this section. The determination whether a taxable year is appropriate must take into account all of the relevant facts and circumstances, including the U.S. taxable years used by the affiliates for general U.S. income tax purposes. The taxable year chosen by the affiliates for purposes of applying this section must be used consistently from year to year. The taxable year may be changed only with the prior consent of the Commissioner. Those affiliates that do not use the year determined under this paragraph (c) as their U.S. taxable year for general U.S. income tax purposes must, for purposes of this section, use their U.S. taxable year or years ending within the taxable year determined under this paragraph (c). If, however, the stock of an affiliate is disposed of so that it ceases to be an affiliate, then the taxable year of that affiliate will be considered to end on the disposition date for purposes of this section.

(d) *Consistent treatment of foreign taxes paid.* All affiliates must consistently either elect under section 901(a) to claim a credit for foreign income taxes paid or accrued, or deemed paid or accrued, or deduct foreign taxes paid or accrued under section 164. See also § 1.1502–4(a); § 1.905–1(a).

(e) *Effective date.* Except as provided in paragraph (b)(1)(iii) of this section (relating to newly acquired affiliates), this section is effective for taxable years of affiliates beginning after December 31, 1993.

Approved: September 27, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–27563 Filed 11–6–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Navy, Defense.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS PELICAN (MHC 53) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1995.

FOR FURTHER INFORMATION CONTACT: Commander K.P. McMahon, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia 22332–2400, Telephone Number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS PELICAN (MHC 53) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 27(f), pertaining to the display of all-round lights by a vessel engaged in mineclearance operations, and Annex I, paragraph 9(b), prescribing that all-round lights be located as not to be obscured by masts, topmasts or structures within angular sectors of more than six (6) degrees. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Section 706.2, certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605, is amended by adding the following ship to Table Four, paragraph 18:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Table Four.

* * * * *

Vessel	Number	Obscured angles relative to ship's heading	
		Port	STBD
PELICAN	MHC 53 .	59.5° to 78.3°.	281.7° to 300.5°.

Dated: 24 July 1995.

Approved:

K.P. McMahon,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 95–27474 Filed 11–6–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. To improve the competitiveness of the Seaway, the Corporation and the Authority have established that the Tariff charges for the 1995 season under the Tariff Schedule are the same as for the 1994 season. In addition, the Corporation and the Authority have continued, for competitive purposes, the Incentive Tolls Program and revised the volume rebate to broaden the base years and clarify the reporting requirements for the volume rebate.

EFFECTIVE DATE: November 7, 1995.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: In an effort to improve the Seaway's competitiveness, the section 402.8, the Schedule of Tolls, charges are continued for the 1995 at the 1994 season levels. Accordingly, no change is required to the Schedule as it now appears. The Corporation and the Authority also are continuing and revising, for competitive purposes, the Incentive Tolls Program. In section 402.9, the discount for new business, subsection (a) is amended to reflect its applicability to the 1995 navigation season and subsection (c) is amended in part to change the base years for calculating the discount from 1991 through 1993 to 1992 through 1994. In section 402.11, volume rebates, subsection (a) are amended to reflect its applicability to the 1995 navigation season and subsections (b) and (c) are amended to change the base years for calculating the rebate from three years, 1991 through 1993, to four years, 1991 through 1994. The base years for the subsection (c) proviso on mergers or take-overs are also changed from 1991 through 1994 to 1991 through 1995. Finally, subsection (d) is amended to change the submission date for the traffic history description for the purposes of calculating the rebate to the end of the 1995 season and to clarify what specific information is required, *i.e.*, the shipper's or receiver's Seaway traffic history for 1991, 1992, 1993, 1994, and 1995 by port, vessel name, transit date, commodity description, and tonnage.

An exchange of diplomatic notes between Canada and the United States approving this amendment occurred on October 18, 1995.

Regulatory Evaluation

This final rule involves a foreign affairs function of the United States, and therefore, Executive Order 12866 does not apply. This final rule has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This final rule does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

Federalism

The Corporation has analyzed this final rule under the principles and criteria in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends Part 402—Tariff of Tolls (33 CFR Part 402) as follows:

PART 402—[AMENDED]

1. The authority citation for 33 CFR Part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981–990.

2. Section 402.9 is amended by revising paragraph (a) and the first sentence of paragraph (c) introductory text as follows:

§ 402.9 Incentive tolls.

(a) Notwithstanding anything contained in this Tariff, the portion of the composite toll related to charges per metric ton of cargo charged on new business shall be reduced by fifty percent for a Seaway transit beginning and ending during the 1995 navigation year.

* * * * *

(c) For the purposes of this section, ''new business'' means cargo that has not moved through a Seaway lock between an origin and a destination as defined in this paragraph (c) during the navigation seasons of 1992, 1993, and 1994 or cargo that has moved through a Seaway lock in quantities representing less than five percent of the average of Seaway traffic between an origin and a destination during the navigation seasons of 1992, 1993, and 1994. * * * * * * * * *

3. Section 402.11 is amended by revising the first sentence of paragraph (a) and paragraphs (b), (c), and (d) as follows:

§ 402.11 Volume discount.

(a) A volume rebate shall be granted to a shipper of downbound cargo or to a receiver of upbound cargo at the end of the 1995 navigation season after

payment of the full toll specified in the schedule under the tariff in § 402.8 of this part if shipments of a particular commodity during 1995 exceed by a minimum of 25,000 tons the shipper's or receiver's highest tonnage for that particular commodity during 1991, 1992, 1993, or 1994 in the Seaway.

* * *

(b) Volume rebates shall be granted only with respect to commodities whose shipper and receiver have shipped or received the subject commodity in the years 1991, 1992, 1993, and 1994 and have not been subject of a merger or take-over during 1991, 1992, 1993, 1994, or 1995.

(c) The volume rebate shall be equal to a 50 percent reduction of the portion of the composite toll related to charges per metric ton of cargo paid for the shipments that surpass the shippers or receiver's highest tonnage for that commodity during 1991, 1992, 1993, or 1994. Payment of rebates will be made directly to the qualified receiver or shipper.

(d) A description of the shipper's or receiver's Seaway traffic history for 1991, 1992, 1993, 1994, and 1995 by port, vessel name, transit date, commodity description, and tonnage shall be submitted by the shipper or receiver prior to the end of 1995 and shall be subject to audit by the Authority.

* * * * *

Issued at Washington, D.C. on October 27, 1995.

Saint Lawrence Seaway Development Corporation.

David G. Sanders,

Acting Administrator.

[FR Doc. 95–27482 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–61–P

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 95–13]

Automated Tariff Filing and Information System

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This Final Rule amends the requirements of the Federal Maritime Commission (''Commission'' or ''FMC'') pertaining to the Automated Tariff Filing and Information System (''ATFI'') to clarify that no individual may file or retrieve ATFI data until he or she submits a User Registration Form and supporting documents, together with the proper fee, to the Commission and receives a logon ID and password. The rule also makes it clear that this requirement cannot be circumvented by sharing, loaning or using logon IDs or passwords assigned to others. In addition, the rule permits the on-line downloading of daily subscriber data. Subscribers may request daily updates on tape provided by them in those instances where on-line downloading is not cost-effective. Full database tapes, weekly update tapes, and monthly update tapes will no longer be provided.

EFFECTIVE DATE: December 7, 1995.

FOR FURTHER INFORMATION CONTACT: Doris J. Spencer, Director, Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street NW., Washington, D.C. 20573, (202) 523–5835.

SUPPLEMENTARY INFORMATION: The Commission's tariff filing rules at 46 CFR 514.8(f)(1) provide that the ATFI logon IDs and passwords are issued to individual users. Despite this provision, there have been numerous instances of logon IDs or passwords being shared with, loaned to or used by others. The Commission therefore issued a Notice of Proposed Rulemaking (''NPR'') to amend § 514.8 to clarify that no individual may file or retrieve AFTI data until he or she submits a User Registration Form, supporting documents, and the proper fee, to the Commission and receives a logon ID and password. (60 FR 45126, Aug. 30, 1995).

Additionally, given the Commission's reduced level of funding, it is no longer feasible for the Commission to provide full database tapes, weekly update tapes and monthly update tapes. As an alternative, the Commission proposed to implement the capability for on-line downloading of daily subscriber data.

Four parties filed comments in response to the NPR: Rijnhaave Information Services, Inc. (''RIS''), D.X.I. Incorporated (''DXI''), Pacific Coast Tariff Bureau (''PCTB'') and Effective Tariff Management Corporation (''ETM'').

The only comment addressing the proposed password and user ID rule revision was filed by RIS. It is RIS's contention that user IDs and passwords are issued to the tariff publisher and not to a single individual within the tariff publisher's organization. In support of its position RIS cites 46 CFR 514.2 which states that: ''Publisher (tariff) means an organization authorized to file or amend tariff information.'' RIS also refers to Commission News Release 93–11, Assignment of ATFI Access Privileges and Further Batch Filing Certification, August 4, 1993. The News Release states that if the carrier authorizes the tariff publisher to maintain the carrier's organizational record, the publisher, not the carrier, will be the owner of the logon ID and password.

RIS's argument fails to distinguish between the authority to file and amend tariffs and the authority to amend the organizational record of the carrier. A tariff publisher may have authority to file and amend tariffs on behalf of a carrier without having a logon ID and password to access the carrier's organizational record. News Release 93–11 leaves no doubt that logon IDs and passwords are issued to individuals within an organization and not to the organization itself. The News Release states:

> Each organization may identify only one person authorized to update the Organization Record, which is an ATFI component that reflects information about the organization. This person's Login ID has the authority to change information in the Organizational Record.
>
> On the registration form (''form''), the person listed in block 8 will be the owner of the Login ID and password.

The portion of the News Release relied upon by RIS simply points out that, if a carrier authorizes the tariff publisher to maintain the carrier's organizational record, the carrier will not be issued a logon ID and password. That discussion does not contradict the statement quoted above which appears in the same news release. Accordingly, the Commission rejects RIS's comment and will adopt the proposed clarification of its rules pertaining to logon IDs and passwords.

All parties express a desire for the continuation of full database tapes subscriber data. Full database tapes are said to be necessary to audit and add new tariffs to their systems. ETM also opposes the elimination of the weekly subscriber tapes based on (1) the cost of daily data versus weekly update tapes, (2) the cost of higher speed communications equipment, and (3) prolonged on-line downloading time requiring additional lines and equipment to avoid work flow disruptions.

Due to reduced appropriations, the Commission has been forced to curtail purchases of equipment and services pursuant to its ATFI contract. As part of the Commission's efforts to reduce expenses, the position previously responsible for, among other things, developing weekly, monthly and full data base tapes has been eliminated from the contract. The Commission could not avoid cuts in the ATFI program by increasing user fees. User fees are payable to the U.S. Treasury

and cannot be retained by the Commission to defray the cost of ATFI.

The Commission is sympathetic to those who want the Commission to continue to provide weekly, monthly and full data base tapes, and understands that the elimination of this service may have the effect of increasing a tariff publisher's cost of doing business. However, the Commission simply lacks the funds to continue providing weekly, monthly and full data base tapes.

The change will not deprive the industry of ATFI subscriber data that it would otherwise receive. All data contained on a full data base tape has been previously made available as daily subscriber data. While the Commission has an obligation to make ATFI subscriber data available, the Commission does not have an obligation to make the data available in a particular format.

The Commission will make certain modifications to the fees for ATFI data in order to ameliorate the effects of the elimination of weekly, monthly and full data base tapes. Persons requesting download of daily updates will not be required to pay $61 as stated in the NPR, but only 46 cents per minute as now required by § 514.21(g)(1). Persons requesting daily updates on tape must supply the tapes and return postage, and pay $43 per daily update as opposed to the $61 specified in the NPR. The charge of $43 reflects the average downloading time, at 46 cents a minute, and associated labor costs. Although these charges are based on the Commission's costs, the Commission cannot retain the charges to defray the cost of providing the service, as explained above.[1]

The Commission plans a transition period during which users may receive daily subscriber data either on tape or through on-line download. This will allow subscribers to thoroughly test the data download functionality and compare the results with tape data. The transition period will also provide an opportunity for batch retrievers and batch filers to access the system using higher speed modems and/or improved file transfer software. After this period, firms desiring to receive daily data on tape will be required to furnish their own tapes.

The Commission will install 28.8 Kbps modems and make available the Zmodem file transfer protocol on the ATFI system. Batch retrievers and batch filers may wish to upgrade their modem speed to decrease file transfer time. The Zmodem file transfer protocol includes a crash recovery capability that allows a data download file transfer to restart at the point where it was disrupted.

Several parties proposed other changes. RIS suggests that the certification process formerly required by 46 CFR 514.21(m) be retained. PCTB requests an ATFI enhancement that would provide the capability to download a single tariff and daily data for a single tariff. PCTB also suggests that the Commission enter into a leased line arrangement to facilitate the transmission of very large filings. RIS seeks to use dedicated lines for daily updates and batch filing sessions. All these proposals are beyond the scope of the NPR and cannot be addressed in this proceeding.

The Commission certifies pursuant to § 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions. The Commission recognizes that these proposed revisions may have some impact on the shipping industry, but not of the magnitude that would be contrary to the requirements of the Regulatory Flexibility Act.

The rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended. Therefore, Office of Management and Budget review is not required.

List of Subjects in 46 CFR Part 514

Freight, Harbors, Maritime carriers, and Reporting and recordkeeping requirements.

Part 514 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 514—[AMENDED]

1. The authority citation for Part 514 continues to read as follows:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721, and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

Subpart C—Form, Content and Use of Tariff Data

2. In § 514.8, paragraph (f) is revised to read as follows:

§ 514.8 Electronic Filing.

* * * * *

(f) *Password and User ID.* (1) System Identifications (''IDs'') for either filing or retrieval logon and initial password assignments are obtained by submitting the User Registration Form (exhibit 1 to this part), along with the proper fee under § 514.21 and other necessary documents prescribed by § 514.4(d) of this part, to BTCL. A separate User Registration Form is required for each individual that will access ATFI.

(2) Logon IDs and passwords may not be shared with or loaned to or used by any individual other than the individual registrant. The Commission reserves the right to disable any logon ID that is shared with, loaned to or used by parties other than the registrant.

(3) Authority for organizational maintenance, filing or retrieval can be transferred by submitting an amended registration form requesting the assignment of a new logon ID and password (see § 514.(4)(d)). The original logon ID will be canceled when a replacement logon ID is issued.

* * * * *

3. In § 514.20, paragraph (d) is revised to read as follows:

§ 514.20 Retrieval.

* * * * *

(d) *Batch retrieval through data base files.* Interested parties may subscribe to all tariff filings/updates received by the Commission on a daily basis. The ATFI System Administrator will create a daily subscriber data update file which will be accessible to subscribers. The daily updates subscriber will access the ATFI system to on-line download the tariff updates received during the previous workday and any intervening weekend/holidays, as well as any tariff updates created by the Commission (e.g., suspensions, rejections, etc.). Subscribers may request that daily updates be forwarded on tape (either 9 track, 6250 bpi or 8 mm cartridge, Exabyte 8500 compatible) when the file size indicates that the on-line download option is not cost-effective. Subscriber responsibility and charges for use of this option are specified in § 514.21(j)(2). The Commission may also send selected daily updates by first class mail (or as directed by subscribers at subscriber's expense) or make updates available at the ATFI computer center when the magnitude of the file size indicates that downloads would degrade ATFI access for other ATFI user functions. The charge specified in § 514.21(j)(2) will apply, but subscribers will not be required to provide tapes. Subscribers requesting update data on tape are responsible for insuring that the Commission has received sufficient pre-paid monies before the last business day of the preceding month in order to subscribe to the next month's filings.

[1] Section 514.20(d) was also modified to clarify the application of § 514.21(j)(2).

The Commission will terminate the download capability of any accounts in arrears.

* * * * *

4. In § 514.21, paragraph (j) is revised to read as follows:

§ 514.21 User charges.

* * * * *

(j) *Daily Subscriber Data (§ 514.20(d)).* (1) Persons requesting download of daily updates must pay 46 cents per minute as provided by § 514.21(g)(1).

(2) Persons requesting daily updates on tape must supply the tapes and return postage, and pay $43 per daily update.

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

FR Doc. 95–27489 Filed 11–6–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[DA 95–2190]

Independent Data Communications Manufacturers Association (IDCMA) and AT&T Corp. Petitions Regarding Frame Relay Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; declaratory ruling.

SUMMARY: This order grants separate Petitions for declaratory ruling concluding that: AT&T's InterSpan Frame Relay Service incorporates a basic service that must be offered pursuant to tariff; and all facilities-based IXCs offering basic frame relay service must also tariff the service. The intended effect of this order is that all facilities-based IXCs offering basic frame relay service must file tariffs within sixty (60) days of the effective date of this order.

EFFECTIVE DATE: December 7, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Kupinsky at (202) 418–1587 or Rose Crellin at (202) 418–1581, Policy and Program Planning Division, Common Carrier Bureau (202) 418–1580.

SUPPLEMENTARY INFORMATION: On November 28, 1994, the Independent Data Communications Manufacturers Association, Inc. (IDCMA) filed a petition for declaratory ruling that AT&T's InterSpan Frame Relay Service (InterSpan) is a basic transmission service subject to the tariffing and other requirements of Title II of the Communications Act of 1934, as amended (Act). Thereafter, on December 5, 1994, AT&T filed a separate petition for declaratory ruling that the Commission's decision regarding InterSpan should apply to all other interexchange carrier's (IXSs) frame relay services.

IDCMA's petition requested that the Commission declare AT&T's InterSpan service to be a basic service that AT&T must offer under tariff. Thus, the issue before the Commission was whether AT&T and certain other carriers must offer frame relay service as a regulated telecommunications service in accordance with the requirements of Title II of the Act and the Commission's Computer II, 45 FR 31319, May 13, 1980, and Computer III, 51 FR 24350, July 3, 1986, proceedings.

Frame relay is a high-speed packet-switching technology used to communicate data between, among other things, disperse local area computer networks (LANs). Digital data is divided into individual ''packets''—each with its own destination information—that are transmitted separately. When all the packets of data arrive at this destination, they are reassembled into their original form.

Frame relay technology also serves as the intermediary format for data traveling between and among computer systems employing different communications protocols. AT&T's InterSpan Service, for example, provides a variety of protocol conversion functions permitting communication with its frame relay network. That is, a customer may provide data to the network in an original protocol, the network converts the data into frame relay protocol, transmits the data across the network, and then converts the data back to the original protocol or a different protocol before delivering the data out of the network.

The regulatory treatment of data communications services is governed by the basic-enhanced services framework established in the Commission's Computer II proceeding. Computer II Final Order, 77 FCC2d 384 (1980), 45 FR 31319, May 13, 1980. Basic services are regulated under Title II of the Act and Commission Rules. Common carriers must file tariffs for such services. The Commission has previously determined that packet-switching networks may provide a basic service.

In contrast, section 64.702(a) of the Commission's Rules defines enhanced services in pertinent part as ''services * * * which employ computer processing applications that act on the * * * protocol or similar aspects of the subscriber's transmitted information; [or] provide the subscriber additional, different, or restructured information.'' Thus, the Commission has traditionally treated carrier provision of protocol conversion, except in some limited cases, as an enhanced service. Enhanced services are not regulated under the Commission's Rules.

For the reasons set forth in the full Order, the Common Carrier Bureau (Bureau) concludes that frame relay service is a basic service. The Bureau finds that frame relay service offers a transmission capability that is virtually transparent in terms of its interaction with customer-supplied data. The service is already provided pursuant to tariff as a basic service by all but one of the Bell Operating companies (BOCs). Accordingly, the Bureau declines to conclude that frame relay is an enhanced service.

The Bureau rejects AT&T's argument that frame relay is an enhanced service because modifications to the frame header that occur during network transmission—such as changes in discard eligibility or location code—render the customer data that is delivered to the terminating customer through its frame relay service ''different'' from the data transmitted by the originating customer. The Bureau also rejects the argument of AT&T and others that the customer receives ''different'' or ''restructured'' information within the meaning of Section 64.702 if the network discards eligible frames in frame relay networks.

The Bureau also concludes that AT&T's InterSpan service in particular incorporates a basic frame relay service that AT&T must unbundle from its enhanced offering and offer under tariff.

AT&T requested in its petition that if the Commission finds that AT&T frame relay service is a basic service subject to tariff, that the ruling be made applicable to the frame relay services offered by all other IXCs.

Having applied Commission Rules and found that frame relay service is a basic service, the Bureau concludes that, pursuant to the Computer II decision, all facilities-based common carriers providing enhanced services in conjunction with basic frame relay service must file tariffs for the underlying frame relay service. This requirement applies independently of any additional requirements under the Computer III proceedings. Further, all

facilities-based common carriers providing basic frame relay service must file tariffs within sixty (60) days of the effective date of this order.

Federal Communications Commission.

Kathleen M.H. Wallman,

Chief, Common Carrier Bureau.

[FR Doc. 95–27470 Filed 11–6–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–180; RM–7698, RM–7818, RM–7819]

Radio Broadcasting Services; Seabrook, Huntsville, Bryan, Victoria, Kenedy, and George West, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This document denies an Application for Review filed by Helen Maryse Casey directed against the *Report and Order* in this proceeding. *See* 58 FR 12903, March 8, 1993. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 7, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau,(202) 776–1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 91–180, adopted July 31, 1995, and released August 29, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Washington, DC 20037.

List of Subjects in Part 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–27469 Filed 11–6–95; 8:45 am]

BILLING CODE 6712–01–F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1815

Acquisition Regulation; Cost or Pricing Data; Correction

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule which was published October 18, 1995 (60 FR 53878) The final rule revised NASA policies on cost or pricing data in order to make the policies consistent with recently revised Federal-wide policies.

EFFECTIVE DATE: October 18, 1995.

FOR FURTHER INFORMATION CONTACT: William T. Childs, (202) 358–0454.

SUPPLEMENTARY INFORMATION:

Background

The Federal Acquisition Streamlining Act of 1994 (FASA) revised policy on cost or pricing data under the Truth in Negotiations Act (TINA), among other things. The TINA changes have been implemented in the Federal Acquisition Regulation (FAR) at 48 CFR chapter 1, and those changes necessitate corresponding revisions of the NASA FAR Supplement (NFS).

Need for Correction

Two section headings were incorrectly published. In section 1815.804–1, paragraph (a)(1) is removed because it is adequately covered by FAR 15.804–1, two citations are corrected, and the term ''exemption'' is revised to read ''exception'', which is the term used by the FAR. Paragraph (b) was inadvertently omitted from § 1815.804–2. The paragraph provides guidance that the agreed date under FAR 15.804–2(b)(2) should generally be within two weeks of the date of price agreement.

Correction of Publication

Accordingly, the publication on October 18, 1995 of the final rule which was the subject of FR Doc. 95–25858, is corrected as follows:

1815.804 [Corrected]

Paragraph 2. on page 53879, in the first column, is corrected by revising the heading of § 1815.804 to read as follows:

1815.804 Cost or pricing data and information other than cost or pricing data.

1815.804–1 [Corrected]

Paragraph 3. on page 53879, in the first column, is corrected by revising the heading and paragraphs (a), (b), and (c) of section 1815.804–1 to read as follows:

1815.804–1 Prohibition on obtaining cost or pricing data.

(a)(1) When the adequate price competition exception will be used in a single-offer situation, the exception shall be approved by the head of the contracting activity. The exception document shall cite the authority of 10 U.S.C. 2306(b)(1)(B), and the procedure in paragraph (d) of this section shall be used.

(2) The adequate price competition exception is applicable to both fixed-price and cost-reimbursement type procurements.

(i) The use of this exception for a cost-reimbursement procurement requires the careful exercise of judgment on the part of the contracting officer based on the application of the guidance in FAR 15.804–1(b)(1)(i)(A) and the regulations of this chapter to the facts of each procurement. The instances when its use under cost-reimbursement procurements would be appropriate should be limited. One reason is that, unlike fixed-price type contracts, where the final cost to the Government is set at the negotiated contract amount, in cost-reimbursement contracts, the contract amount is only an estimate of the Government's final cost. As a consequence, the failure to obtain cost or pricing data could result in a competing contractor intentionally underestimating its costs for the purpose of winning the award, which could then cause the actual contract costs to significantly exceed those proposed.

(ii) If and when negotiations conducted with a successful offeror after receipt of Best and Final Offers result in a substantial change in that offeror's price, the validity of any adequate price competition exception which previously applied could be nullified, regardless of contract type.

(3) When the decision is made to apply the adequate price competition exception, that decision shall be documented in the contract file. In addition, for cost-reimbursement procurements, that document shall be signed by the procurement officer and a copy provided to the Analysis Division, Code HC.

(b) When an exception is granted under FAR 15.804–1(c)(4) for repetitive submissions of catalog items, Government approval of the exception request shall state the effective period, usually not more than one year, and require the contractor to furnish any later information that might raise a

question as to the exception's continuation.

(c) When excepting submission under FAR 15.804–1(b)(2)(iii), the contracting officer shall document the reasons for the exception. It is generally appropriate to include a description of the similarities and differences from a commercial item, along with a discussion of the actual sales prices of the commercial item and an explanation of the value of the differences from that item. If the fact of substantial sales to the general public is well known, information addressing the quantity of sales is not required.

* * * * *

1815.804–2 [Corrected]

Paragraph 4. on page 53879, in the third column, is corrected by adding paragraph (b) to read as follows:

1815.804–2 Requiring cost or pricing data.

* * * * *

(b) If a certificate of current cost or pricing data is made applicable as of a date other than the date of price agreement, the agreed date should generally be within two weeks of the date of price agreement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

[FR Doc. 95–27515 Filed 11–6–95; 8:45 am]

BILLING CODE 7510–01–M

Proposed Rules

Federal Register
Vol. 60, No. 215
Tuesday, November 7, 1995

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

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H–049]

RIN 1218–0099

Respiratory Protection

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Reopening the record for comments on a report by M. Nicas.

SUMMARY: OSHA is reopening the record for the Respiratory Protection standard for the purpose of receiving public comment on the Nicas Report. Several specific areas for comment have been identified.

DATES: Written comments must be postmarked on or before January 8, 1996.

ADDRESSES: Comments must be submitted in quadruplicate or 1 original (hardcopy) and 1 disk (5¼ or 3½ inch) in WordPerfect 5.0, 5.1, 6.0, 6.1, or ASCII to: Docket Office, Docket H–049, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone: (202) 219–7894. Any information not contained on disk (e.g., studies, articles) must be submitted in quadruplicate. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046, provided that the original and 3 copies are sent to the Docket Office thereafter.

FOR FURTHER INFORMATION CONTACT: Ms. Anne C. Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 219–8148. A copy of the referenced report is available for inspection and copying in the Docket Office and will be mailed to persons who request a copy by telephoning Mr. John Steelnack at (202) 219–7151. For an electronic copy of the Federal Register notice, contact the Labor News Bulletin Board (202) 219–4748; or OSHA's WebPage on the Internet at http://www.OSHA.gov/. For news releases, fact sheets and other short documents, contact OSHA FAX at (900) 555–3400 at $1.50 per minute.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1994, OSHA published proposed revisions to 29 CFR 1910.134, the Respiratory Protection standard (59 FR 58884). After announcing an extended comment period on the proposal, OSHA held public hearings on the proposal from June 6–20, 1995 (60 FR 15263). One of the issues discussed extensively during this rulemaking is setting assigned protection factors (APFs) for the various respirator classes. To assist OSHA and the public in evaluating the record on this issue, OSHA contracted with Dr. Mark Nicas to prepare recommendations for evaluating protection factor studies and combining information across studies for use in setting APF values. Dr. Nicas submitted a report titled ''The Analysis of Workplace Protection Factor Data and the Derivation of Assigned Protection Factors'' (hereafter, the ''Nicas Report'') which was timely entered as a post-hearing comment into the Respiratory Protection Docket H–049 as Exhibit #156. OSHA is contemplating using the recommendations presented in the Nicas Report as an aid in setting APFs for the final Respiratory Protection standard.

Request for Review and Comments

The post-hearing briefing period recently ended on October 20, 1995. OSHA is interested in giving the public an additional opportunity to comment on the Nicas Report. Accordingly, OSHA is reopening the record for the Respiratory Protection standard solely to provide a further opportunity to review the Nicas Report and to submit such comments on the recommendations proposed. The Nicas Report recommends approaches to resolving key science-policy issues related to setting APFs. These issues include deciding which workplace protection factor studies should be evaluated; accounting for particle size effects, respiratory deposition, and below-detection-limit values; and requiring specific statistical analyses to account for between-wearer variability in respirator performance, within-wearer variability, between-study variations, and parameter uncertainty.

OSHA requests that reviewers comment on the appropriateness and completeness of the issues identified, the statistical methodology recommended, and the solutions offered for the other issues. OSHA also would appreciate any additional opinions or information that reviewers may want to submit regarding statistical methodologies and evaluation criteria for APF studies.

Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655).

Signed at Washington, D.C. this 1st day of November, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 95–27498 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC79–1–9606; FRL–5326–1]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the Raleigh/Durham Carbon Monoxide (CO) Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the North Carolina CO Maintenance plan for the Raleigh/Durham area. On October 18, 1995, the State of North Carolina submitted a revision to the Raleigh/Durham CO Maintenance plan, and requested EPA to parallel process the above referenced

revision. This revision changes the projected emission inventory previously published in the Federal Register by EPA on August 2, 1995. Because the revised projections show the oxygenated fuels regulation is not needed for maintenance of the CO standard, North Carolina is in the process of removing regulations that require the use of oxygenated fuels in the Raleigh/Durham area. The State has scheduled a public hearing on November 20, 1995.

DATES: Comments on this proposed action must be received in writing by December 7, 1995.

ADDRESSES: Written comments on this action should be addressed to Benjamin Franco, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Department of Environment, Health and Natural Resources, P.O. Box 29535, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Benjamin Franco, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, EPA Region 4, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4211. Reference file NC79–1–9606.

SUPPLEMENTARY INFORMATION: Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable National Ambient Air Quality Standard (NAAQS) for at least ten years after the Administrator approves a redesignation to attainment. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems.

On October 7, 1994, the North Carolina Department of Environmental Management (NCDEM) submitted a redesignation request and maintenance plan for the Raleigh/Durham CO nonattainment area. On August 2, 1995, EPA published in the Federal Register a final rule making effective on September 18, 1995, a maintenance plan and redesignation of Raleigh/Durham to attainment for CO. The above approved maintenance required the use of a 2.0% oxygenated fuel program.

Subsequently, on October 18, 1995, NCDEM submitted a request to parallel process a proposed revision to the Raleigh/Durham CO maintenance plan. This revision requested the removal of the Oxygenated Fuel program from the maintenance plan. Due to a change in the methodology used to calculate this projection, NCDEM has revised their projected vehicle miles travelled (VMT) in Wake and Durham Counties. The conclusion that oxygenated fuel was necessary to maintain the CO standard was based on a VMT projection methodology that segregated the road types into rural and urban categories. This methodology resulted in an annual growth rate for urban road types of 5.5 to 6.5 percent in Wake and Durham Counties. A major concern with this methodology, not recognized at the time the original maintenance plan was developed, was the reassignment of rural roads to urban roads. During the six year window of VMT data, a significant amount of rural road mileage was reassigned by the North Carolina Department of Transportation to urban road mileage as the urban boundaries of Raleigh and Durham were expanded. The result from this analysis was an apparent higher urban VMT growth rate than was actually occurring.

A revised analysis has been performed using a projection methodology that projects VMT on a county total basis. The resulting annual VMT growth rate for both counties is approximately 3.5 percent. Due to lower projected highway mobile CO emissions, the CO standard can be maintained without the continued use of oxygenated gasoline in the Raleigh/Durham area. Therefore, EPA is allowing the removal of the Oxygenated Fuel program starting in the 95–96 winter season. The State has moved the program to the contingency plan. In addition, NCDEM made changes to the contingency plan requiring an analysis of necessary control measures prior to implementation of any pre-adopted control measures.

Demonstration of Maintenance—Projected Inventories

Total CO emissions were projected from 1991 out to 2005 for the Raleigh/Durham area. These projected inventories were prepared in accordance with EPA guidance. In this notice, EPA is proposing to approve the revised emission budget. This budget is based on the best available information, and shows attainment for 10 years.

RALEIGH/DURHAM NONATTAINMENT AREA, CO EMISSIONS SUMMARY

[Tons per day]

Year	Area	Nonroad	Mobile	Point	Total
1991	57.12	5.22	569.82	1.00	633.16
1993*	57.60	5.58	434.87	1.01	499.06
1996	60.01	6.25	538.09	1.08	605.43
1999	63.45	7.18	522.31	1.13	594.07
2002	65.90	8.08	526.55	1.16	601.69
2005	67.87	8.98	543.84	1.20	621.89

*Oxygenated Fuel program in place (2.7% Oxygen by weight).

Proposed Action

In this document, EPA is proposing approval of revisions to the State of North Carolina's CO maintenance plan for the Raleigh/Durham area.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities, and in fact is expected to decrease compliance costs and decrease costs to consumers in the affected areas. Small entities include small businesses,

small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Unfunded Mandates

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

These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being proposed for approval by this action would impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 27, 1995.

Michael V. Payton,

Acting Regional Administrator.

[FR Doc. 95–27566 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA9–1–5540, WA28–1–6613, WA34–1–6937; FRL–5326–3]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) proposes limited approval and limited disapproval of the State Implementation Plan (SIP) submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The implementation plan was submitted by the State to satisfy certain Federal requirements for a moderate nonattainment area PM_{10} SIP for Yakima, Washington.

DATES: Comments must be postmarked on or before December 7, 1995.

ADDRESSES: Written comments should by addressed to: Montel Livingston, EPA, Office of Air (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information are available for inspection during normal business hours at the following locations: EPA, Office of Air, Docket #'s WA9–1–5540 WA28–1–6613 and WA34–1–6937, 1200 Sixth Avenue (AT–082), Seattle, WA 98101, and the Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504.

FOR FURTHER INFORMATION CONTACT: Kelly Huynh, Office of Air (AT–082), EPA, Seattle, Washington 98101, (206) 553–1059.

SUPPLEMENTARY INFORMATION:

I. Background

The Yakima, Washington area was designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA) upon enactment of the Amendments of 1990 on November 15, 1990. This Yakima nonattainment designation was announced in a March 15, 1990 Federal Register notice (See 56 FR 11101). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of Title I of the CAA. EPA has issued a ''General Preamble'' describing EPA's views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the CAA, including those State submittals containing moderate PM_{10} nonattainment area SIP requirements [See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here 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 proposal and the supporting rationale. In this rulemaking action on the Yakima, Washington moderate PM_{10} SIP, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Thus, EPA will consider any timely submitted comments before taking final action on this proposal.

Those States containing initial moderate PM_{10} nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the CAA.

States with initial moderate PM_{10} nonattainment areas were also required to submit a permit program for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM_{10} NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543–44.

II. This Action

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (See 57 FR 13565–66). In this action, EPA is proposing to grant limited approval of the Yakima PM_{10} nonattainment plan as submitted on March 24, 1989; May 1, 1992; August 19, 1992; February 3, 1994; March 1, 1995; March 10, 1995; June 27, 1995; and August 17, 1995. EPA may grant a limited approval of this nonattainment plan under section 110(k)(3) of the CAA, in light of EPA's authority under section 301(a) of the CAA to adopt regulations necessary to further air quality by strengthening the SIP. EPA is proposing a limited approval because the nonattainment plan serves the purpose of improving air quality within the Yakima area and is providing Reasonable Further Progress (RFP)

toward attainment. The proposed approval of this implementation is limited, however, in that EPA is not proposing that this plan satisfies the specific requirements of section 172(c)(1) and 189(a)(1)(C) of the CAA to implement RACM, including RACT, in moderate nonattainment areas. EPA also is not proposing that this plan satisfies the specific requirements of section 189(c) of the CAA to show quantitative milestones which demonstrate attainment until the area is redesignated as well as the 1994 attainment demonstration. EPA believes, however, that the control measures adopted and submitted as of this date will achieve PM_{10} emission reductions in the Yakima nonattainment area. The submittals as a whole contain inseparable portions the cannot be approved. Thus, EPA is proposing to approve the control measures of the complete SIP for the limited purpose of strengthening the SIP and making them enforceable.

However, because the Washington Department of Ecology (WDOE) and Yakima County Clean Air Authority (YCCAA) have not yet adopted into the SIP and submitted to EPA certain control measures necessary for full approval of the SIP, EPA is proposing to disapprove the RACM (including RACT) element. In addition, because the attainment demonstration for 1994 was not submitted as well as the maintenance demonstration, which demonstrates attainment until the area is redesignated, EPA is proposing to disapprove these elements of the SIP. Detailed discussions of the plan deficiencies are included below and are further discussed in the Technical Support Document (TSD). If this proposed disapproval becomes final, it will begin the period for the imposition of discretionary sanctions under section 110(m) of the CAA and the 18-month sanctions clock for the imposition of mandatory sanctions under section 179 of the CAA. If finalized, this disapproval will also authorize EPA to issue a Federal implementation plan as provided in section 110(c)(1) of the CAA.

If, however, prior to EPA's final action on this proposal the State submits a plan to EPA that adequately addresses the outstanding deficiencies, EPA will withdraw this limited approval/disapproval and will instead finalize a full approval of the PM_{10} plan for Yakima. EPA invites public comment on this proposed action.

A. Analysis of State Submission

1. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (See section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). EPA 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 EPA six months after receipt of the submission.

The WDOE held a public hearing on the original plan on December 7, 1988. When this was superceeded by the May 1992 supplement and the August 1992 supplement additional public hearings were held on November 30, and December 9, 1991 to entertain public comment on the Yakima implementation plan. Adequate public hearings were also held for the Yakima contingency measures (submitted on February 3, 1994) and the Yakima County Clean Air Authority (YCCAA) regulations (submitted on February 21, 1995). Following the public hearings the submittals were adopted by the State and signed by the Governor's designee as a proposed revision to the SIP.

The SIP revisions were reviewed by EPA to determine completeness shortly after their submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittals were found to be complete, and letters were forwarded to the WDOE indicating the completeness of the submittals and the next steps to be taken in the review process.

2. Accurate Emissions Inventory

It is a requirement that each nonattainment plan include a comprehensive, accurate, current inventory of allowable emissions from major point sources and actual emissions from all other sources of the relevant pollutant (PM_{10}) in the area. Because the submission of such inventories are necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the submission (See 57 FR 13539).

Yakima originally submitted an emissions inventory for a 1985 base year with the inventory projected out to 1991. When the area did not attain the PM_{10} NAAQS by 1991, the base year was replaced by 1990 in the August 1992 submittal and a new emissions inventory was submitted. These emissions were again projected out, this time to the attainment year (1994). The 1990 inventory identified residential wood combustion as the primary nonattainment source, contributing approximately 57% of the total area emissions. Additional contributing sources included resuspended road dust at 17.2%, point sources at 9.8%, vehicle exhaust at 7% and other area sources at 9%. However, the emissions inventory did not include allowable point source emissions and thus supplements were needed to provide a sufficient basis for determining the adequacy of the attainment demonstration for the area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the CAA.[2]

The Yakima emissions inventory became comprehensive, and EPA approvable, in terms of allowable point source emissions when WDOE submitted a March 10, 1995 and August 17, 1995 supplement. Further details are found in the TSD on the emissions inventory.

3. RACM (Including RACT)

As noted, the initial moderate PM_{10} nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 [See sections 172(c)(1) and 189(a)(1)(C)]. The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61).

Residential wood combustion emissions were identified as the main contributing source to the PM_{10} nonattainment problem in Yakima and

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

[2] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline.* The guidance provided in this document appears to be consistent with the Act.

are being controlled through a mandatory woodsmoke curtailment program as the area's sole control measure. The original submittal indicates that a mandatory woodsmoke curtailment program was to have been implemented by the 1988–1989 heating season. It turns out the curtailment program was not fully functioning until the 1991–1992 heating season. The SIP indicates that the control of indoor solid fuel burning devices are expected to result in an emission reduction of 66.5% of woodstove PM_{10} emissions in the area. A more detailed discussion of the individual source contributions and their associated control measures (including available control technology) can be found in the TSD. EPA has reviewed the State's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of Washington's PM_{10} nonattainment plan control strategy has resulted in attainment of the PM_{10} NAAQS by December 31, 1994, and thus is approved.

4. Demonstration

As noted, the initial moderate PM_{10} nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the CAA). Alternatively, the State must show that attainment by December 31, 1994 is impracticable. WDOE and YCCAA conducted attainment demonstrations using Regional Air Modeling (RAM), a dispersion modeling program, for the Yakima area. However, WDOE and YCCAA have not submitted a demonstration that indicates the 24 hour NAAQS for PM_{10} will be attained by 1994 in the Yakima area with the new allowable major source emissions. The 24-hour PM_{10} NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR section 50.6). The annual PM_{10} NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$. A quantitative milestone demonstration has not yet been submitted showing that the PM_{10} NAAQS will be maintained for the three years following the attainment date (December 31, 1997) and thus a limited disapproval action is being taken for the plan. The control strategy used to attain the PM_{10} standard is summarized in the section titled ''RACM (including RACT)''. A more detailed description of the attainment demonstration and the control strategy used can be found in the TSD.

5. PM_{10} Precursors

The control requirements which are applicable to major stationary sources of PM_{10}, also apply to major stationary sources of PM_{10} precursors unless EPA determines such sources do not contribute significantly to PM_{10} levels in excess of the NAAQS in that area (see section 189(e) of the CAA). Even if precursors are controlled, available data showing the contribution of precursors should be provided by the State and placed in the SIP rulemaking record in the event that sources of precursors assert that they should be granted an exclusion from control under section 189(e).

An analysis of air quality and emissions data for the Yakima nonattainment area indicates that exceedances of the NAAQS are attributed chiefly to particulate matter emissions from solid fuel combustion and that sources of particulate matter precursor emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) contribute an insignificant amount. Even with WDOE assuming worst case conditions, the Yakima area precursor sources would only total 7.9% of the emissions inventory. The consequences of this finding are to exclude these sources from the applicability of PM_{10} nonattainment area control requirements. Note that while EPA is making a general finding of approval for this area, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress

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

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to determine whether annual incremental reductions different from those provided in the SIP should be required in order to ensure attainment of the PM_{10} NAAQS by December 31, 1994 (see section 171(1)). The Yakima PM_{10} SIP does not adequately demonstrate attainment for 1994 and does not contain a 1997 quantitative milestone report to demonstrate the area's maintenance of air quality until redesignation to attainment is granted. For full approval, WDOE and YCCAA must submit a plan which demonstrates RFP towards attainment through December 31, 1997.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (See sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's 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). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (See section 110(a)(2)(C)).

Yakima's SIP control measure is addressed above under the section headed ''RACM (including RACT).'' The control measure applies to curtailing residential woodsmoke activities during impaired air quality conditions. The SIP provides that all non-certified solid fuel burning devices are subject to curtailment under Stage I calls, and all woodheating devices are banned during a Stage II call. The curtailment calls are not applicable to those residences that have no other source of heat available.

The attached TSD contains further information on enforceability requirements including enforceable emission limitations, a description of the rules contained in the SIP and the source types subject to them, test methods with averaging times, malfunction provisions, correctly cited references of incorporated methods/rules, and reporting and recordkeeping requirements.

Because YCCAA is authorized by WDOE to enforce the woodsmoke curtailment program, as well as the other RACM measures contained within

the SIP such as source emission limitations and 20% opacity restrictions, the YCCAA regulations must be enforceable in order to approve the Yakima nonattainment plan. Under section 110(a)(2)(E)(iii) of the CAA the State must provide necessary assurances that the State has responsibility for ensuring adequate implementation of plan provisions. WDOE would have responsibility where, for example, they have the authority and resources to implement provisions where the local entity fails to do so. State law requires local agency regulation to be as stringent or more stringent than the state's regulations. At this time several of the YCCAA regulations are less stringent than the state's regulations and thus are not legally enforceable, and need to be corrected before full plan approval. Details describing the YCCAA regulation deficiencies are contained in the TSD supporting this notice.

8. Contingency Measures

As provided in section 172(c)(9) of the CAA, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (See generally 57 FR 13543–13544). These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM_{10} NAAQS by the applicable statutory deadline. The Yakima SIP contains a Woodstove Buy Back Program (WSBBP) as its primary contingency measure. The WSBBP is being implemented as a 100% overcontrol measure. The program has been in effect since July 1, 1993, when EPA funding was secured, and has replaced approximately 70 uncertified woodstoves to cleaner forms of heat such as certified woodstoves, electricity, or gas. The WSBBP provides overcontrol for the area by creating a reduction in overall emissions regardless of whether a PM_{10} NAAQS violation occurs, and thus is being approved as Yakima's contingency measure.

III. Implications of This Action

EPA is proposing limited approval and limited disapproval of the plan revisions submitted to EPA for the Yakima nonattainment area on March 24, 1989; May 1, 1992; August 19, 1992; February 3, 1994; and March 1, 1995.

In order to fully approve the Yakima moderate PM_{10} nonattainment SIP submitted by the WDOE and the YCCAA, some corrections and supplements need to be submitted to and approved by EPA. The plan deficiencies are described above and more completely in the TSD. Several YCCAA regulations need to be corrected to become at least as stringent as WDOE's corresponding regulations, a new 1994 attainment demonstration needs to be submitted using worst case allowable emissions, and a quantitative milestone report needs to be submitted demonstrating attainment of the area until December 31, 1997. If finalized without correcting these deficiencies, this limited approval/disapproval would constitute a disapproval under section 179(a)(2) of the CAA (See generally 57 FR 13566–67). As provided under section 179(a) of the CAA, the State of Washington would have up to 18 months after a final SIP disapproval to correct the deficiencies that are the subject of the disapproval before EPA is required to impose either the highway funding sanction or the requirement to provide two-to-one new source review offsets. If the State has not corrected its deficiency within 24 months after the disapproval, EPA must impose the second sanction. Any sanction EPA imposes must remain in place until EPA determines that the State has corrected these deficiencies. If EPA ultimately disapproves the SIP submittal for the Yakima nonattainment area and the State of Washington fails to correct the deficiencies within 18 months of such disapprovals, EPA anticipates that the first sanction it would impose would be the two-to-one offset requirement. Note also that any final disapproval would trigger the requirement for EPA to impose a federal implementation plan as provided under section 110(c)(1) of the CAA.

IV. Request for Public Comments

EPA is requesting comments on all aspects of this proposal. As indicated at the beginning of this notice, EPA will consider any comments postmarked by December 7, 1995.

V. Administrative Review

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

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

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 proposed action promulgated 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.

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.

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 2214–2224), as revised by a July 10, 1995 memorandum

from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 24, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–27567 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[FRL–5325–6]

RIN 2060–AD93

National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage 1)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: Today's action provided in this document proposes to amend the rule, ''National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)'' (the ''Gasoline Distribution NESHAP''), promulgated on December 14, 1994. The proposal would amend the initial compliance date for the equipment leak provisions applicable to existing sources from no later than December 14, 1995 to no later than December 15, 1997, and would amend the date by which an existing facility must provide an initial notification to December 16, 1996 or 1 year after a facility becomes subject to the Gasoline Distribution NESHAP, whichever is later. These modifications are being proposed because the compliance date for these provisions is approaching and the EPA believes that, under current circumstances, additional time will allow sources a better opportunity to establish major or area source status without foregoing quantifiable emissions reductions. The EPA is requesting comments for the next 30 days only on the proposed changes discussed in this document.

DATES: *Comments.* Comments must be received on or before December 7, 1995 unless a hearing is requested by November 17, 1995. If a hearing is requested, written comments must be received by December 22, 1995.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than November 21, 1995. If a hearing is held, it will take place on November 21, 1995, beginning at 9:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket (6102), Attention Docket Number A–92–38 (see docket section below), room M1500, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. JoLynn Collins, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5671.

Docket. Docket No. A–92–38, Categories VI Reconsideration and VII Amendments, contains information considered by the EPA in developing this proposal document and is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, including all non-Government holidays, at the EPA's Air and Radiation Docket and Information Center, room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone (202) 260–7548. A reasonable fee may be charged for copying. This docket also contains information considered by the EPA in proposing and promulgating the Gasoline Distribution NESHAP.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Shedd at telephone number (919) 541–5397 or at facsimile number (919) 541–3470, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1994 (59 FR 64303), the EPA promulgated the ''National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)'' (the ''Gasoline Distribution NESHAP''). The Gasoline Distribution NESHAP regulates all hazardous air pollutants (HAP) emitted from new and existing bulk gasoline terminals and pipeline breakout stations that are major sources of HAP emissions or are located at sites that are major sources of HAP emissions. Among the promulgated requirements for existing sources under this rule are the requirements that sources institute an equipment leak prevention program and provide an initial notification of regulatory status no later than December 14, 1995 (40 CFR §§ 63.424(e) and 63.428(a)).

Whether a bulk gasoline terminal or pipeline breakout station is a major source or at a site that is a major source is determined by a site's ''potential to emit considering controls'' (Act 112(a), 42 U.S.C. 7412(a)). In the Gasoline Distribution NESHAP, the EPA promulgated two mechanisms for determining major source status that are specific to this rule: first, the NESHAP included screening equations for determining potential emissions from terminals and breakout stations based on the HAP content of gasoline, gasoline throughput, and emission rates from equipment used to handle gasoline; and second, the NESHAP allowed for case-by-case review or ''emissions inventory'' of a site's emissions (40 CFR § 63.420). The equations could be used only by bulk terminals and pipeline breakout stations that were at sites that had no other sources of HAP. Other sources would be able to establish potential to emit either by an emissions inventory or by using other means (outside the rule) that are generally available to sources under Subpart A of part 63, the General Provisions, and related guidance.

When the EPA promulgated the Gasoline Distribution NESHAP, the EPA anticipated that about 75 percent of all gasoline bulk terminals and pipeline breakout stations would be able to establish area source status. However, the EPA recognizes that several developments since promulgation of the rule have affected the number of sources that will establish area source status.

First, through a petition for reconsideration filed by the American Petroleum Institute (API), the EPA has learned that virtually all bulk terminals and pipeline breakout stations have HAP containing fluids such as distillates (e.g., diesel fuel and heating fuel oil) that are handled in equipment outside of the source category. According to API, this limits the utility of the emissions screening equation as a method for establishing potential to emit.

Second, the EPA has issued two guidance memoranda on options for and timing of establishing potential to emit limits. See memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement, ''Options for Limiting the Potential to Emit (PTE) of

a Stationary Source under Section 112 and Title V of the Clean Air Act (Act)'' (January 25, 1995); and memorandum from John S. Seitz, ''Potential to Emit for MACT Standards—Guidance on Timing Issues'' (May 16, 1995). These memoranda are available in the docket (see **ADDRESSES** section). The first memorandum identified a number of ways States and sources could establish federally enforceable limits for potential to emit. In addition, the memorandum created a 2-year transition period (until January 1997) under which sources could be treated as area sources if (1) the source actually emits less than 50 percent of the major source threshold and keeps adequate records, or (2) the source emits between 50 and 100 percent of the major source threshold, and is limited to this level by State limitations that are enforceable as a practical matter.

The second memorandum addressed timing issues related to the applicability of NESHAP that affect only major sources. Major sources can reduce their potential emissions by obtaining federally enforceable limitations on their potential to emit, and as a result can achieve area source status. Before the memorandum was released, it was not clear whether there was a deadline for achieving area source status, and whether a source that reduced its potential emissions after the deadline could avoid being subject to the standard. The memorandum explained that, in the absence of rulemaking, the best reading of section 112 would require area source status to be achieved by the first substantive compliance date of a NESHAP. Additionally, the memorandum explained that unless area source status is achieved by this deadline, it will be permanently treated as a major source for purposes of that NESHAP.

Applying these two guidances to the Gasoline Distribution NESHAP would mean that, in order to avoid being permanently treated as a major source subject to the NESHAP, gasoline distribution facilities would need to achieve area source status before December 15, 1995, the compliance date for the equipment leaks provision. Industry reports there are a number of sources emitting less than the major source threshold that do not have what the EPA believes are practicably enforceable limitations on their potential to emit. Under the transition policy discussed above, sources emitting more than 50 percent of major source threshold and lacking practicably enforceable limits, are currently treated as major sources. The mechanisms for establishing practicably enforceable limitations on ''throughput'' (the amount of gasoline, distillate, and other HAP emitting liquids handled at the terminal or breakout station) generally exist. Those mechanisms, however, require time to process to put into place for sources. Given the proximity of the date of the May 16 policy guidance to the December 15, 1995 deadline, the EPA believes that some sources emitting more than 50 percent of the major source threshold may not have a reasonable time period to establish practical limitations on their potential to emit.

II. Summary of and Rationale for the Amendments

Because the developments since promulgation of the Gasoline Distribution NESHAP have led the EPA to believe that fewer sources will be able to achieve area source status than had been anticipated, the EPA has considered ways to modify policy or rule provisions so that the applicability of the NESHAP will reflect the EPA's intent at the time of promulgation. After considering revising one or both of the guidances as they would apply to this source category, and after considering the amendment of the emissions screening equation, the EPA believes the most appropriate way to allow sources a better opportunity to establish major or area source status without foregoing quantifiable emission reductions would be to defer the compliance date for the equipment leak provisions for existing sources until December 15, 1997. Furthermore, for the reasons discussed below, the EPA proposes amending the initial notification provisions so that notice is not required until December 16, 1996.

Deferral of the existing source compliance dates for equipment leak programs and initial notifications is consistent with the deadlines for compliance under the Act section 112(i), which requires existing major sources to be in compliance with a rule within 3 years of promulgation. The deferral of the equipment leak provisions will give facilities significant additional time to obtain appropriate limits on potential to emit hazardous air pollutants. The deferral of the initial notification for existing sources will give cargo truck operators more accurate notice of the regulatory status of the terminals that they use and provide adequate lead time for any necessary truck vapor tightness testing to be performed during normal testing schedules. Additionally, the notices will provide Federal, State, and local air pollution control agencies an opportunity to plan for the implementation of this rule prior to the first compliance date for existing sources. The initial notifications will be considered non-binding in the case of sources that are major sources on December 16, 1996, but become area sources prior to December 15, 1997. Sources that cannot limit their potential to emit before December 15, 1997, must comply with the requirements for major sources under the Gasoline Distribution NESHAP by that date.

Emissions of HAP associated with equipment leaks at bulk terminals and pipeline breakout stations were estimated to be less than 2 percent of baseline HAP emissions for the source category. An industry survey indicated that 80 percent of bulk terminals were already performing some type of periodic visual leak detection program; therefore, deferring the compliance date of the Gasoline Distribution NESHAP provisions on leak detection would not forego significant emission reductions.

Deferring the compliance date for the equipment leak provisions for existing sources is preferable to the other available options. The other options are: (1) to deem the January 25 or May 16 guidance memoranda inapplicable to the Gasoline Distribution NESHAP; (2) to adopt a temporary certification scheme similar to that adopted for the Hazardous Organic NESHAP (HON); and (3) to modify the emission screening equations based on data currently before the EPA. While the guidances do not have the legal status of a rule, the EPA continues to believe that the analysis expressed in the timing guidance is the best reading of the Act section 112. Addressing the timing issues by allowing a site to temporarily be a major source and then subsequently an area source would mean that many sources would be temporarily subject to the equipment leak provisions. Not only would this pose difficulties in assuring compliance but it would also produce little, if any, emission reduction benefits.

If the EPA were to allow an owner or operator of a source to make a temporary certification that the source is not at a major source, in a manner similar to the HON amendments promulgated on April 10, 1995 (60 FR 18020), then potentially hundreds of temporary certifications would be required. Unlike the source category subject to the HON, which is estimated to have 20 to 40 eligible plant sites, air pollution control agencies would have little practical opportunity for oversight of these numerous temporary certifications. Therefore, because of the temporary nature of the HON certifications and the vast difference in

the numbers of potential certifications, the EPA is not proposing to condition an extension of the compliance date on the filing of a certification that actual emissions are below major source levels.

At this time, the EPA does not have sufficient analyzed data and information to propose modification to the emission screening equation in the rule. The EPA is considering data submitted by the API as part of its petition for reconsideration (available in the docket) and may propose modification of the equation and request comment at a later date. The EPA is not requesting comments at this time on the petition for reconsideration or potential changes to the emission screening equation.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 2060–0325) may be obtained from Ms. Sandy Farmer, Information Policy Branch, Environmental Protection Agency, 401 M St., S.W. (mail code 2136), Washington, D.C. 20460, or by calling (202) 260–2740.

Today's proposed changes to the Gasoline Distribution NESHAP have no impact on the information collection burden estimates made previously. No additional certifications or filings are proposed. Therefore, the ICR has not been revised.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a regulation is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The criteria set forth in section 1 of the Order for determining whether a regulation is a significant rule are as follows:

(1) Is likely to have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government communities;

(2) Is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Is likely to materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Is likely to raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Gasoline Distribution NESHAP promulgated on December 14, 1994, was treated as a ''significant regulatory action'' within the meaning of the Executive Order. An estimate of the cost and benefits of the NESHAP was prepared at proposal as part of the Background Information Document (BID) and was updated in the BID for the final rule to reflect comments and changes to the final rule. The amendments proposed today would have no impact on the estimates in the BID. The EPA's earlier estimates of costs and emission reductions were based on the Gasoline Distribution NESHAP affecting only major sources and did not quantify the emissions reductions associated with the visual equipment leak detection program; in any event, these emission reductions are small relative to the total reduction for the source category.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is a ''non-significant regulatory action'' within the meaning of the Executive Order. As such, this action was not submitted to OMB for review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires the EPA to consider potential impacts of regulations on small business entities. The Act specifically requires the preparation of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. When the EPA promulgated the Gasoline Distribution NESHAP, it analyzed the potential impacts on small businesses, discussed the results of this analysis in the Federal Register, and concluded that the promulgated regulation would not result in financial impacts that significantly or differentially stress affected small companies. Because today's proposal imposes no additional impacts, a Regulatory Flexibility Analysis has not been prepared.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business 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, the 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, the 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 the 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 action proposed 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. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Petroleum bulk stations and terminals, Reporting and recordkeeping requirements.

Dated: November 1, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Section 63.424 is amended by revising paragraph (e) to read as follows:

§ 63.424 Standards: Equipment leaks.

* * * * *

(e) Initial compliance with the requirements in paragraphs (a) through (d) of this section shall be achieved by existing sources as expeditiously as practicable, but no later than December 15, 1997. For new sources, initial compliance shall be achieved upon startup.

* * * * *

3. Section 63.428 is amended by revising paragraphs (a) and the first sentence of paragraph (f)(1) to read as follows:

§ 63.428 Reporting and recordkeeping.

(a) The initial notifications required for existing affected sources under

§ 63.9(b)(2) shall be submitted by 1 year after an affected source becomes subject to the provisions of this subpart or by December 16, 1996, whichever is later. Affected sources that are major sources on December 16, 1996 and plan to be area sources by December 15, 1997 shall include in this notification a brief, non-binding description of and schedule for the action(s) that are planned to achieve area source status.

* * * * *

(f) * * *

(1) In the case of an existing source or a new source that has an initial startup date before the effective date, the report shall be submitted with the notification of compliance status required under § 63.9(h), unless an extension of compliance is granted under § 63.6(i).

* * *

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4. Table 1 to subpart R is amended by revising the entry ''63.9(b)(2)'' to read as follows:

* * * * *

TABLE 1 TO SUBPART R.—GENERAL PROVISIONS APPLICABILITY TO SUBPART R

Reference	Applies to subpart R	Comment
*	*	* * * * * *
63.9(b)(2)	Yes	Subpart R allows addition time for existing sources to submit initial notification. § 63.428(a) specifies submittal by 1-year after being subject to rule or December 16, 1997, whichever is later.
*	*	* * * * * *

[FR Doc. 95–27568 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 60, No. 215
Tuesday, November 7, 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

Food and Consumer Service

Collection Requirements Submitted for Public Comment and Recommendations: Evaluation of the Team Nutrition Pilot Implementation Communities

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request OMB review of the Evaluation of the Team Nutrition Pilot Implementation Communities.

DATES: Comments on this notice must be received by January 8, 1996.

ADDRESSES: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to: Michael E. Fishman, Acting Director, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3103 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Michael E. Fishman, (703) 305–2117.

SUPPLEMENTARY INFORMATION: .

Title: Evaluation of the Team Nutrition Pilot Implementation Communities.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: Team Nutrition is a multi-dimensional nutrition education program delivered through the media, homes, schools and other community partners. It also includes training and technical assistance to support school efforts to implement the Dietary Guidelines for Americans in their food services. The major objectives of this study are to (1) describe and compare school and community strategies to implement the Team Nutrition approach to improving children's food choices, and (2) assess the outcomes of Team Nutrition activities on students, their parents, teachers, school staff and administrators, as well as school food service practices.

The evaluation will focus on seven volunteer school districts in which 30 elementary and seven middle schools will implement Team Nutrition activities during the 1996 Spring and 1996 Fall semesters. Four of these districts have also volunteered to participate in the outcome evaluation. In these districts, 24 elementary and 12 middle schools will serve as treatment or comparison sites over the same time period.

The evaluation includes seven data collection protocols: (1) Activity logs maintained by teachers, staff and administrators describing nutrition promotion events; (2) a classroom survey of all students, in two different grades, at treatment and comparison schools; (3) observations of food choice and plate waste behavior in school cafeterias among subsamples of the same students; (4) in person interviews with subsamples of surveyed students; (5) a telephone survey with a parent of each student surveyed; (6) a self-administered survey of teachers who deliver nutrition education; (7) personal interviews with key administrators and staff who make and implement food service policy.

Estimate of Burden: The public reporting burden associated with one application of each protocol described above is estimated to average 2 minutes for each activity log entry, 15 minutes for the classroom survey of students, 0 burden for cafeteria observations, 30 minutes for the student interviews, 25 minutes for the parent survey, 20 minutes for the teacher survey, and 35 minutes for administrator and staff interviews.

Respondents: The kind of respondents associated with each data collection protocol is described above.

Estimated Number of Respondents: Surveys will be conducted with approximately 7800 students. Cafeteria observations will be made of about 5150 of these same students. 600 of these students will also participate in interviews. Approximately 7800 parents will be surveyed. 145 teachers will compete self-administered questionnaires, and 150 school administrators and food service staff will participate in interviews. The same teachers, administrators and staff will maintain activity logs of nutrition promotion events.

Estimated Number of Responses per Respondent: Most data collection protocols will be administered twice per respondent, before and after treatment in both school semesters referenced above. The only exception is for teachers, food service staff and administrators from participating elementary schools who will respond to appropriate protocol—questionnaries for teachers and interviews for others—a total of four times (twice in each of two semesters). Administrators, teachers and staff are expected make an average of 200 entries on the activity logs.

Estimated Total Burden on Respondents: 13,365 hours. Copies of this information collection can be obtained from Carol Olander, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Dated: November 1, 1995.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 95–27573 Filed 11–6–95; 8:45 am]

BILLING CODE 3410–30–M

Collection Requirements Submitted for Public Comment: Nutrition Education and Training Program: Program Funding

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 this proposed notice is intended to elicit public comment on our request to the Office of Management and Budget (OMB) for approval of information collection for the Nutrition Education

and Training Program. This notice seeks to renew approval previously granted for collection of information via the FCS–665, Supplement to financial Status Report, Nutrition Education and Training Program.

DATES: Comments must be received on or before January 8, 1996, in order to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection information to: Lou Pastura, Acting Director, Grants Management Divison, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302. All written comments will be open to public inspection during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, VA, Room 412.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Questions concerning this proposed notice should be addressed to Mr. Pastura at the above address or by telephone at (703) 305–2048.

SUPPLEMENTARY INFORMATION:

Title: FCS–665, Supplement to Financial Status Report, Nutrition Education and Training Program.

OMB Number: 0584–0383.

Expiration Date of Approval: October 31, 1995.

Type of Request: Extension of a currently approved information collection.

Abstract: The primary objective of The Nutrition Education and Training (NET) Program is to encourage effective dissemination of scientifically valid information to children participating in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. The NET Program currently has 53 State agencies participating. Since section 19 of the Child Nutrition Act (42 U.S.C. 1788) since establishes two statutory conditions relating to the use of these funds, certain reporting requirements must be in place. The two conditions are: (1) No more than 15 percent of the NET grant may be used for administrative purposes; and (2) The State must match each Federal dollar so applied with one dollar from State sources. To ensure compliance with these conditions, it is necessary to identify the amount of both Federal grant funds and State matching funds that the State agency has applied to NET Program administrative costs. While each State agency uses the SF–269 for total program outlays, this form does not provide a means for capturing subdivisions of total program outlays. Thus, form FCS–665 has been developed to serve that purpose with respect to the NET Program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: State governments.

Estimated Number of Respondents: 53.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 66.25 hours.

Dated: October 30, 1995.

William E. Ludwig,

Administrator.

[FR Doc. 95–27499 Filed 11–6–95; 8:45 am]

BILLING CODE 3410–30–M

Grain Inspection, Packers and Stockyards Administration

Designation of Quanta for the South Texas Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Quanta Lab (Quanta), main office located in Selma, Texas, to provide official inspection services under the United States Grain Standards Act, as amended (Act), for 1 year. Initially, Quanta will be providing aflatoxin testing services. Quanta will phase in other official services as soon as they are ready.

EFFECTIVE DATE: January 1, 1996.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202– 720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 3, 1995, Federal Register (60 FR 11952), GIPSA asked persons interested in providing official services in South Texas under a pilot program allowing more than one official agency to provide service in a single geographic area to submit an application for designation. There were two applicants: Quanta, main office located in Selma, Texas; and Saybolt-South Texas Inspection Service, Inc. (Saybolt), main office located in Galena Park, Texas. Quanta applied for the Texas Counties of: Atascosa, Bexar, Dimmit, Duval, Frio, Kinney, La Salle, Maverick, McMullen, Medina, Uvalde, Val Verda, Webb, and Zavala. Quanta subsequently amended their application to include all the counties announced in the March 3, 1995, Federal Register. Saybolt applied for all Counties announced in the March 3, 1995, Federal Register.

GIPSA, in the March 3, 1995, Federal Register, also asked for comments on the need for official services in the South Texas region. Comments were due by March 21, 1995. GIPSA received 10 comments by the deadline. All but one of the comments indicated that there is no need for an official inspection service in South Texas because of the service provided by the Corpus Christi Grain Exchange. The Corpus Christi Grain Exchange is an unofficial agency not designated by GIPSA under authority of the Act. The other comment was of the view that the proposal was unworkable due to competitive factors, the level of demand for official services in the pilot area, and the size of the pilot area.

GIPSA requested comments on the applicants in the June 1, 1995, Federal Register (60 FR 28572). Comments were due by July 15, 1995. GIPSA received no comments by the deadline.

GIPSA visited both applicants and attended a trade association meeting in South Texas. Based on information from these and other sources, GIPSA believes there is sufficient need for official service.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act, and determined that Saybolt is not qualified due to its providing unofficial inspection services resulting in a conflict of interest. GIPSA also evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Quanta is able to provide official services in the South Texas area. Since there is only one qualified applicant, GIPSA can not run a pilot program in South Texas. Since Quanta is able, GIPSA is designating Quanta to provide official services in South Texas effective January 1, 1996.

Effective January 1, 1996, and ending December 31, 1996, Quanta is designated to provide official inspection services in the Texas Counties of: Atascosa, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, San Patricio, Starr, Uvalde, Val Verda, Webb, Willacy, Zapata, and Zavala, excluding those export port locations served by GIPSA. Initially, Quanta will be providing official aflatoxin services. Quanta will phase in other official services as soon as they have the required equipment and expertise.

Interested persons may obtain official aflatoxin testing services by contacting Quanta at 210–651–5799.

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

Dated: October 30, 1995

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 95–27500 Filed 11–6–95; 8:45 am]

BILLING CODE 3410–EN–F

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Information Systems Technical Advisory Committee will be held November 30, 1995, 9 a.m., room 1617M–2, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenue, NW., Washington, DC. This Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to information systems equipment and technology.

Agenda

Closed Session—9 a.m.–9:30 p.m.

1. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

General Session—9:30 a.m.–12 p.m.

2. Welcome and Introductions.
3. Nominations and Election of Chairmen.
4. Presentations and Comments from the Public.
5. Recent Announcements and Changes Affecting Commodities under the Purview of the Committee.
6. Effect of Export Controls on Information Security Products.
7. Using Composite Theoretical Performance (CTP) to Measure the Performance of Networks.

Closed Session—1 p.m.–5 p.m.

8. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that public presentation materials or comments be forwarded at least one week before the meeting to the address listed below: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meeting or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: November 1, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–27471 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–DT–M

National Defense Stockpile Market Impact Committee Request for Public Comments

AGENCY: Office of Strategic Industries and Economic Security, Bureau of Export Administration, U.S. Department of Commerce.

ACTION: Notice of request for public comments on the potential market impact of proposed disposals of excess commodities from the National Defense Stockpile. This action concerns the Department of Defense proposed disposal plans under Fiscal Year (FY) 1997 Annual Materials Plan (AMP) and revisions to the FY 1996 AMP.

SUMMARY: This notice is to advise the public that the interagency National Defense Stockpile Market Impact Committee is seeking public comment on the market impact of proposed disposals of excess materials currently held in the National Defense Stockpile.

DATES: Comments must be received by December 7, 1995.

ADDRESSES: Written comments (10 copies) should be sent to Richard V. Meyers, Co-Chair, Stockpile Market Impact Committee, Office of Strategic Industries and Economic Security, Room 3878, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Richard V. Meyers, Office of Strategic Industries and Economic Security, U.S. Department of Commerce, (202) 482–3634; or Stephen G. Brundage, Office of International Energy and Commodities Policy, U.S. Department of State, (202) 647–2871; co-chairs of the National Defense Stockpile Market Impact Committee.

SUPPLEMENTARY INFORMATION: Under the authority of the Strategic and Critical Materials Stock Piling Act of 1979, as amended, (50 U.S.C. 98 *et seq.*), the Department of Defense (as National Defense Stockpile Manager) maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *.'' The Committee includes representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, Treasury and the Federal Emergency Management Agency and is co-chaired by the Departments of Commerce and State. The NDAA for Fiscal Year 1993 directs the Committee to ''consult from time to time with representatives of producers, processors

and consumers of the types of materials stored in the stockpile.''

The Department of Defense, Defense National Stockpile Center (DNSC), has submitted to the Committee for its consideration and recommendations the proposed FY 1997 Annual Materials Plan (AMP) and revisions to the FY 1996 AMP for the disposal of the listed Stockpile materials. These AMP documents are reprinted below.

Following Committee review, the AMP documents with Committee recommendations are submitted to the Congress by DNSC for approval.

Included in the proposed FY 1997 and revisions to the FY 1996 AMP below, are the proposed maximum disposal quantities for each listed material. Please note that these quantities are not sales target disposal quantities. They are only a statement of the proposed maximum disposal quantity of each material that can be sold in a particular fiscal year. The quantity of each material that will actually be offered for sale will depend on the market for the material at the time of the offering as well as on the quantity of material approved for disposal by the Congress.

PROPOSED FISCAL YEAR 1997 AMP

Material	Units	Current FY 1996 quantity	Proposed FY 1997 quantity
Aluminum Oxide, Abrasive	ST	6,000	12,000
Aluminum Oxide, Fused Crude	ST	15,000	30,000
Analgesics	AMALB	2,500	2,500
Antimony	ST	3,000	3,000
Asbestos (all types)	ST	20,000	20,000
Bauxite, Metallurgical (Jamaican)	LDT	600,000	600,000
Bauxite, Metallurgical (Surinam)	LDT	300,000	300,000
Bauxite, Refractory	LCT	80,000	63,000
Beryl Ore	ST	2,000	2,000
Bismuth	LB	300,000	300,000
Cadmium	LB	750,000	1,200,000
Celestite	SDT	3,600	3,600
Chromite, Chemical	SDT	50,000	100,000
Chromite, Metallurgical	SDT	350,000	250,000
Chromite, Refractory	SDT	100,000	100,000
Chromium, Ferro	ST	25,000	50,000
Cobalt	LBCO	4,000,000	6,000,000
Diamond, Bort	CT	1,000,000	1,000,000
Diamond Stone	CT	2,000,000	1,000,000
Fluorspar, Acid	SDT	200,000	200,000
Fluorspar, Metallurgical	SDT	40,000	80,000
Graphite, Natural Malagasy	ST	1,220	1,220
Iodine	LB	1,000,000	1,000,000
Jewel Bearings	PC	0	31,000,000
Kyanite	SDT	0	1,200
Lead	ST	60,000	60,000
Manganese, Battery Grade Natural	SDT	60,000	60,000
Manganese, Battery Grade Synthetic	SDT	0	3,011
Manganese, Chemical Grade	SDT	40,000	40,000
Manganese, Ferro Alloys	ST	0	50,000
Manganese, Metal Electrolytic	ST	2,000	2,000
Manganese, Metallurgical Grade	SDT	400,000	400,000
Mercury	FL	20,000	20,000
Mica, Muscovite Block	LB	750,000	750,000
Mica, Muscovite Film	LB	500,000	500,000
Mica, Muscovite Splittings	LB	500,000	500,000
Mica, Phlogopite Splittings	LB	500,000	500,000
Nickel	ST	10,000	9,686
Quartz Crystals, Nat.	LB	300,000	0
Quinidine	Av Oz	200,000	200,000
Quinine	Av Oz	200,000	200,000
Sapphire and Ruby	CT	10,000,000	6,300,000
Sebacic Acid	LB	350,000	1,000,000
Silicon Carbide	ST	4,500	4,500
Silver (for coinage)	Tr Oz	9,000,000	9,000,000
Talc	ST	1,200	1,000
Thorium Nitrate	LB	1,000,000	1,000,000
Tin	MT	12,000	12,000
Vegetable Tannin Extract, Chestnut	LT	2,000	2,000
Vegetable Tannin Extract, Quebrac	LT	5,000	5,000
Vegetable Tannin Extract, Wattle	LT	5,000	5,000
Zinc	ST	50,000	50,000

PROPOSED REVISIONS TO FISCAL YEAR 1996 AMP

Material	Units	Quantity
Aluminum Oxide, Abrasive.	ST	12,000
Aluminum Oxide, Fused Crude.	ST	30,000
Cadmium	LB	1,200,000
Chromium, Ferro	SDT	50,000
Cobalt	LBCO	6,000,000
Diamond, Bort	CT	1,000,000
Fluorspar, Metallurgical.	SDT	80,000
Jewel Bearings	PC	51,778,337
Kyanite	SDT	1,200
Manganese, B.G. Synthetic.	SDT	3,011
Sebacic Acid	LB	4,508,697
Vanadium Pentoxide	ST V	333

The following list of new materials is presently under consideration by the Congress for disposal authority in both FY 96 and FY 97. The Committee is seeking public comment on the potential market impact of the sale of these materials in the event that Congress does grant such disposal authority.

PROPOSED NEW MATERIAL DISPOSAL AUTHORITY FOR FY 1996 AND FY 1997

Material	Units	FY 1996 quantity	FY 1997 quantity
Aluminum	ST	62,881	0
Chromium, Electrolytic	ST	500	500
Cobalt	LBCO	6,000,000	6,000,000
Columium, Carbide	LBCB	2,000	2,000
Columium, Ferro	LBCB	60,000	60,000
Germanium	KG	2,000	2,000
Indium	TROZ	50,205	0
Mica, Phlogopite Block	LB	10,000	10,000
Palladium	TROZ	100,000	100,000
Platinum	TROZ	50,000	50,000
Rubber	LT	125,138	60,000
Tantalum Carbide Powder	LBTA	1,000	1,000
Tantalum Minerals	LBTA	75,000	75,000
Tantalum Oxide	LBTA	20,000	20,000
Titanium Sponge	ST	2,000	2,000
Tungsten Ores and Concent	LB W	2,000,000	2,000,000
Tungsten Carbide Powder	LB W	10,000	10,000
Tungsten Metal	LB W	10,000	10,000
Tungsten, Ferro	LB W	10,000	10,000

The Committee requests that interested parties provide written comments, data, documentation, or any relevant information on the potential market impact of the sale of any commodity in the above three lists. Although comments in response to this Notice must be received by December 7, 1995 to ensure full consideration by the Committee, interested parties are encouraged to submit additional comments at any time thereafter to keep the Committee informed as to the market impact of the sale of these commodities. Public comment is an important element of the Market Impact Committee AMP review process.

Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified or business confidential information will be exempted from public disclosure. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–5653. The records in this facility may be inspected and copied in accordance with the regulations published in Part 4 of Title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Information about the inspection and copying of records at the facility may be obtained from Ms. Margaret Cornejo, the Bureau of Export Administration's Freedom of Information Officer, at the above address and telephone number.

Dated: November 2, 1995.

John A. Richards,

Deputy Assistant Secretary for Strategic Industries and Economic Security.

[FR Doc. 95–27538 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–DT–P

International Trade Administration

Antidumping Duty Administrative Reviews; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for certain antidumping duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for preliminary and final determinations in certain administrative reviews of various antidumping duty orders and findings, pursuant to the Uruguay Round Agreements Act (URAA).

EFFECTIVE DATE: November 7, 1995.

FOR FURTHER INFORMATION CONTACT: John Kugleman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–0649.

SUPPLEMENTARY INFORMATION:

Background

Commerce has delayed conducting administrative reviews of the following orders and findings, pending the development of new questionnaire that accord with the URAA.

Since it is not practicable to complete the following reviews within the time limits mandated by the URAA (245 days from the last day of the anniversary month for preliminary determinations, 120 additional days for final determinations), pursuant to Section 751(a)(3)(A) of the Tariff Act of 1930, as amended, the Department is extending the time limits as follows:

Product	Country	Review period	Initiation date	Prelim. due date	Final due date
Brass Sheet & Strip (A–122–601).	Canada	1/12/94	2/15/95	1/31/96	7/29/96
Anhydrous Sodium Metasilicate (A–427–098).	France	1/12/94	2/15/95	1/31/96	7/29/96
Stainless Steel Wire Rods (A–427–811).	France	1/12/94	2/15/95	1/31/96	7/29/96
Stainless Steel Cooking Ware (A–580–601).	Republic of Korea	1/12/94	2/15/95	1/31/96	7/29/96
Forged Stainless Steel Flanges (A–533–809).	India	2/9/94–1/21/95	3/15/95	2/28/96	8/26/96
Mechanical Transfer Presses (A–588–810).	Japan	2/94–1/95	3/15/95	2/28/96	8/26/96
Axes/Adzes; Bars/Wedges; Hammers/Sledges; Picks/Mattocks (A–570–803).	People's Republic of China (PRC).	2/94–1/95	3/15/95	2/28/96	8/26/96
Natural Bristle Paint Brushes (A–570–501).	PRC	2/94–1/95	3/15/95	2/28/96	8/26/96
Shop Towels (A–538–802)	Bangladesh	3/94–2/95	4/14/95	4/1/96	9/25/96
Ferrosilicon (A–533–806)	Brazil	3/94–2/95	4/14/95	4/1/96	9/25/96
Stainless Steel Butt-Weld Pipe and Tube Fittings (A–588–702).	Japan	3/94–2/95	4/14/95	4/1/96	9/25/96
Steel Wire Rope (A–580–811)	Korea	3/94–2/95	4/14/95	4/1/96	9/25/96
Circular Welded Pipe & Tube (A–549–502).	Thailand	3/94–2/95	4/14/95	4/1/96	9/25/96
Sulfanilic Acid (A–412–810)	PRC	3/94–2/95	4/14/95	4/1/96	9/25/96
Color Television Receivers (A–580–008).	Korea	3/94–2/95	4/14/95	4/1/96	9/25/96
Lead & Bismuth Carbon Steel (A–412–810).	United Kingdom	3/94–2/95	4/14/95	4/1/96	9/25/96
Roller Chain, Other than Bicycle (A–588–028).	Japan	4/94–3/95	5/15/95	4/30/96	10/28/96
Certain Fresh Cut Flowers (A–201–601).	Mexico	4/94–3/95	5/15/95	4/30/96	10/28/96

Interested parties must submit applications disclosure under administrative protective order in accordance with 19 CFR 353.34(b).

These extensions are in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)).

Dated: October 25, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–27559 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–803]

Certain Small Business Telephone Systems from Korea; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On June 15, 1995, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on certain small business telephone systems (SBTS) from Korea covering the period February 1, 1994, through January 31, 1995. We are now terminating that review.

EFFECTIVE DATE: November 7, 1995.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1994, TT Systems, an importer of SBTS from Korea, requested that the Department conduct an administrative review of the antidumping duty order on SBTS from Korea with respect to one manufacturer/exporter, Ssangbangwool Electronics. The review period is February 1, 1994, through January 31, 1995.

On June 15, 1995, the Department published in the Federal Register (60 FR 31447) a notice of initiation of an administrative review of the order with respect to Ssangbangwool and the period February 1, 1994, through January 31, 1995.

On August 28, 1995, TT Systems Corp. requested that it be allowed to withdraw its request for a review and that the review be terminated.

The Department's regulations at 19 CFR 353.22(a)(5) (1994) state that ''the Secretary may permit a party that requests a review under paragraph (a) of

this section to withdraw the request no later than 90 days after the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so.'' Because no significant work has yet been done, we have determined that it is reasonable to extend the 90-day time limit and to allow TT Systems to withdraw its request for review. See *Steel Wire Rope From Japan; Partial Termination of Antidumping Duty Administrative Reviews,* 56 FR 41118 (August 19, 1991). Accordingly, the Department is terminating this review.

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is in accordance with section 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Dated: October 30, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–27558 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–DS–P

University of South Carolina, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–036. *Applicant:* University of South Carolina, Columbia, SC 29208. *Instrument:* ICP Mass Spectrometer, Model ELEMENT. *Manufacturer:* Finnigan MAT GmbH, Germany. *Intended Use:* See notice at 60 FR 29827, June 6, 1995. *Reasons:* The foreign instrument provides: High resolution to 0.02 AMU to provide (1) separation of Fe Isotopes from ArO interferences and (2) resolution of interferences from Polatomic Species such as $^{40}Ar^{16}O$. *Advice Received From:* National Institutes of Health, September 13, 1995.

Docket Number: 95–037. *Applicant:* University of Miami, Coral Gables, FL 33145. *Instrument:* L-B Film Deposition Apparatus with Ellipsometric Microscope. *Manufacturer:* Nippon Laser & Electronics Lab., Japan. *Intended Use:* See notice at 60 FR 29827, June 6, 1995. *Reasons:* The foreign instrument provides a moving-wall though design and an ellipsometric microscope using polarizers working at the Brewster angle for study of the morphology of monolayer surfactants. *Advice Received From:* National Institutes of Health, September 13, 1995.

Docket Number: 95–038. *Applicant:* University of California, Berkeley, CA 94720-3140. *Instrument:* Mass Spectrometer. *Manufacturer:* Europa Scientific Ltd., United Kingdom. *Intended Use:* See notice at 60 FR 31144, June 13, 1995. *Reasons:* The foreign instrument provides: (1) 120° extended geometry magnetic sector analyzer (2) external precision of 0.1 per mil for 13C and 0.3 per mil for 15N and (3) simultaneous measurement of CO_2 and N_2. *Advice Received From:* National Institutes of Health, September 13, 1995.

Docket Number: 95–045. *Applicant:* The Scripps Research Institute, La Jolla, CA 92037. *Instrument:* Mass Spectrometer System, Model API 100. *Manufacturer:* PE Sciex, Canada. *Intended Use:* See notice at 60 FR 33190, June 27, 1995. *Reasons:* The foreign instrument provides: (1) curtain gas to reduce sample contamination, (2) mass range to 3000 m/z and (3) operation of the care system at room temperature. *Advice Received From:* National Institutes of Health, September 14, 1995.

National Institutes of Health that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–27560 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–DS–F

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Board of Overseers

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on Tuesday, November 28, 1995, from 8:30 a.m. to 4 p.m. The Board of Overseers consists of nine members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of the meting on November 28, 1995, will be for the Board of Overseers to receive and then discuss reports from the National Institute of Standards and Technology with the chairman of the Judges Panel of the Malcolm Baldrige National Quality Award. These reports will cover the following topics: Overview of the 1995 award program; report by the contractor, American Society for Quality Control; discussion of program status and plans for 1995; develop recommendations and report same to the Director of the National Institute of Standards and Technology.

DATES: The meeting will convene November 28, 1995 at 8:30 a.m., and adjourn at 4 p.m. on November 28, 1994.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

Dated: November 1, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–27561 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

November 1, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 1, 1995.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 5371, published on January 27, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 1, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on November 1, 1995, you are directed to amend further the January 24, 1995 directive to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	399,546 dozen.
331	943,828 dozen pairs.
334	133,792 dozen.
335	144,772 dozen.
336/636	378,453 dozen.
342/642	327,604 dozen.
347/348	1,843,587 dozen.
369–S [2]	1,171,007 kilograms.
634	384,226 dozen.
635	235,375 dozen.
641	490,263 dozen.
638/639	1,198,962 dozen.
645/646	279,211 dozen.
647/648	1,322,319 dozen.
847	456,945 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.95–27472 Filed 11–6–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF ENERGY

Availability of the Tritium Supply and Recycling Final Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Tritium Supply and Recycling Final Programmatic Environmental Impact Statement (PEIS), DOE/EIS–0161. The Tritium Supply and Recycling PEIS evaluates alternatives for an assured, long-term supply of tritium, a radioactive gas which is a necessary component of every weapon in the Nation's nuclear weapons stockpile.

DATES: The Final PEIS was approved by the Department on October 13, 1995. The Environmental Protection Agency published its Notice of Availability regarding this Final PEIS on October 27, 1995. DOE intends to issue a Record of Decision on the Tritium Supply and Recycling PEIS; the decision may be issued no sooner than 30 days from the publication date of the Environmental Protection Agency Notice of Availability in the Federal Register.

ADDRESSES AND FURTHER INFORMATION: A copy of the Final PEIS, its Executive Summary, or both may be obtained by calling 1–800–776–2765, or writing to: Office of Reconfiguration, DP–25, U.S. Department of Energy, P.O. Box 3417, Alexandria, Virginia 22302.

Requests for copies of the Final PEIS can also be made electronically via computer as follows: Federal Information Exchange Bulletin Board, InterNet Address: FEDIX.FIECOM, Modem Toll-Free: 1–800–783–3349, DC Metro Modem: 301–258–0953.

For general information on the DOE NEPA review process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Tritium Supply and Recycling Final PEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), the Council on Environmental Quality NEPA regulations (40 CFR Parts 1500–1508) and the DOE NEPA regulations (10 CFR Part 1021). In the PEIS, the Department proposes to acquire a long-term, assured capability for tritium supply and recycling. Tritium, a radioactive gas with a relatively short radioactive half-life of 12.3 years, is a necessary component of every weapon in the Nation's nuclear weapons stockpile and must be replenished periodically in nuclear weapons to ensure that they function as designed. Currently, the Department does not have the capability to produce the quantity of tritium that is expected to be required to maintain the readiness of the nuclear weapons stockpile.

The Tritium Supply and Recycling PEIS evaluates alternatives for providing long-term, assured tritium supply and recycling. Four technologies for new tritium supply facilities are assessed in the PEIS: Heavy Water Reactor, Modular High-Temperature Gas-Cooled Reactor,

Advanced Light Water Reactor, and Accelerator Production of Tritium. Five sites for new tritium supply facilities and tritium recycling facilities are assessed: the Idaho National Engineering Laboratory (near Idaho Falls, Idaho); the Nevada Test Site (near Las Vegas, Nevada); the Oak Ridge Reservation (Oak Ridge, Tennessee); the Pantex Plant (Amarillo, Texas); and the Savannah River Site (Aiken, South Carolina). Additionally, the PEIS evaluates the alternative of producing tritium in existing commercial light water reactors, via the purchase of an existing reactor or irradiation services. The PEIS also evaluates the environmental impacts associated with the use of an Advanced Light Water Reactor, Modular High Temperature Gas-Cooled Reactor or Commercial Light Water Reactor for the purpose of plutonium disposition in addition to the tritium mission (the so-called multipurpose reactor.) Two options for tritium recycling are evaluated: the upgrade of existing tritium recycling facilities at the Savannah River Site, or the collocation of a new tritium recycling facility with the tritium supply facility at one of the other sites.

The Tritium Supply and Recycling PEIS compares the environmental impacts that would be expected to occur from the tritium supply and recycling alternatives. The No Action alternative of not acquiring new long-term, assured tritium supply, and continuing to operate the existing tritium recycling facilities is also evaluated. The Tritium Supply and Recycling PEIS has a classified Appendix that provides additional information and analysis.

DOE issued a Tritium Supply and Recycling Draft PEIS on March 1, 1995 and invited comments on the adequacy and accuracy of the draft analysis. Almost 2000 comments were provided. The Final PEIS reflects changes made by DOE in response to public comments received and to provide additional information. Key revisions to the PEIS included additional discussion and analysis in the following areas: severe accidents and design-basis accidents for all tritium supply technologies; site-specific environmental impacts of a dedicated power plant for an accelerator; water resource sections; site-specific analysis of a multi-purpose reactor that could produce tritium, burn plutonium as fuel, and produce electricity; the addition of the use of a commercial reactor as a reasonable alternative; and the environmental impacts of providing tritium at an earlier date to support a higher stockpile level.

The Final PEIS also identifies the Department's preferred alternative. The preferred strategy is to begin work on the two most promising tritium production alternatives: (1) purchase an existing light water reactor or irradiation services with an option to purchase the reactor for conversion to a defense facility, and (2) design, build, and test critical components of an accelerator system for tritium production. Within a three-year period, the Department would select one of the alternatives to serve as the primary source of tritium. The other alternative, if feasible, would be developed as a back-up tritium source. The Savannah River Site was designated as the preferred site for an accelerator, should one be built. The preferred alternative for tritium recycling and extraction activities is to remain at the Savannah River Site with appropriate consolidation and upgrading of current recycling facilities and a new extraction facility.

DOE has distributed copies of the Tritium Supply and Recycling Final PEIS to interested individuals and organizations. Additional copies of the Final PEIS are available to any other interested persons and can be requested as described above. DOE expects to issue a Record of Decision on the Tritium Supply and Recycling PEIS in late November 1995.

Signed in Washington, D.C. this 31st day of October, 1995, for the United States Department of Energy.

Everet Beckner,

Principal Deputy Assistant Secretary for Defense Programs.

[FR Doc. 95–27549 Filed 11–6–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–41–000]

Colorado Interstate Gas Co.; Notice of Application

November 1, 1995.

Take notice that on October 31, 1995, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed an application in Docket No. CP96–41–000, pursuant to Section 7(b) of the Natural Gas Act, for authority to abandon by transfer to CIG Field Services Company (Field Services), its affiliate, certain certificated and non-certificated facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG proposes to spin down to Field Services facilities located in the states of Wyoming, Utah, Colorado, Kansas, New Mexico and Oklahoma that will be involved in the gathering and processing of natural gas. It is stated that CIG and Field Services would enter into an agreement for the transfer of the facilities at net book value at the time of transfer. CIG indicates that the net book value of the proposed spin down facilities was $36,111,594 as of December 31, 1994. CIG avers that the transfer of facilities consist of (1) approximately 2,194 miles of pipeline ranging from 2 to 24 inches in diameter, with approximately 2,186 wells attached, (2) approximately 77,710 horsepower of compression, (3) processing facilities, and (4) appurtenant facilities.

CIG proposes to change the accounting classification of certain facilities that are that are currently on its accounting records in the gathering function to the transmission function. CIG avers that the spindown would not adversely affect customers as Field Services will step in to provide the services that CIG previously provided.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20406, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (19 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the issuance of certificate authorization and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion

for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27490 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–27–000]

Colorado Interstate Gas Co.; Notice of Filing of Refund Report

November 1, 1995.

Take notice that on October 27, 1995, Colorado Interstate Gas Company (CIG) filed a refund report in compliance with the Commission's Order Approving Refund Methodology for 1994 Overcollections dated February 22, 1995, issued to GAS Research Institute in Docket No. RP95–124–000. CIG states that refunds were paid by CIG on October 13, 1995.

CIG states that the report summarizes refunds made by CIG to its customers for the period January 1, 1994 through December 31, 1994 pursuant to the Commission's February 22, 1995 Order.

CIG states that copies of CIG's filing have been served on CIG's transportation customers, interested state commissions, and all parties to the proceedings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before November 8, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27493 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–20–000]

Columbia Gas Transmission Co.; Notice of Refund Report

November 1, 1995.

Take notice that on October 25, 1995, Columbia Gas Transmission Company (Columbia Gas) tendered for filing a Report of Gas Research Institute (GRI) Refund. Columbia Gas states that the refund report is being made in accordance with Ordering Paragraph C of the Commission's February 22, 1995, Order Approving Refund Methodology for 1994 Overcollections in GRI's Docket No. RP95–124–000.

Columbia Gas states it has credited its share of the GRI refund to its eligible firm customers, as a credit to invoices issued on or around September 10, 1995. Columbia Gas states that the refund totalling $1,014,961 represented GRI's overcollection of GRI surcharges for the period January 1, 1994 through December 31, 1994.

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, 888 First 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 385.214). All such motions or protests should be filed on or before November 8, 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. 95–27491 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA94–23–000]

Connecticut Yankee Atomic Power Company; Order Establishing Hearing Procedures

November 2, 1995.

On July 21, 1995, the Deputy Chief Accountant issued a letter under delegated authority noting Connecticut Yankee Atomic Power Company's (CY) disagreement with respect to certain recommendations of the Division of Audits.[1] CY was requested to advise whether it would agree to the disposition of the contested matters under the shortened procedures provided for by Part 41 of the Commission's Regulations. 18 CFR Part 41.

By letter dated August 18, 19915, CY responded that it did not consent to the shortened procedures. Section 41.7 of the Commission's Regulations provides that in case consent to the shortened procedures is not given, the proceeding will be assigned for hearing. Accordingly, the Secretary, under authority delegated by the Commission, will set the matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the Federal Register.

It is ordered:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly sections 205, 206, and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedures (18 CFR Chapter I), a public hearing shall be held concerning the appropriateness of CY's practices as referred to above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, Washington, D.C. 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) This order shall be published in the Federal Register.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27521 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[1] 72 FERC ¶ 62,060. The contested matters are discussed in Part I of the letter order.

[Docket No. RP93–89–003]

MIGC, Inc.; Notice of Compliance Filing

November 1, 1995.

Take notice that on October 27, 1995, MIGC, Inc. (MIGC), tendered for filing to become part of its FERC Gas Tariff, First

Revised Volume No. 1, the following tariff sheets:

Sub First Revised Sheet No. 4
Sub Second Revised Sheet No. 4
Sub Third Revised Sheet No. 4

MIGC states that the above-listed tariff sheets are submitted in compliance with Article II of the Settlement approved in the above-captioned docket by Commission order dated September 15, 1995. MIGC further states that a copy of its filing has been served on all parties in this docket.

Any person desiring to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 8, 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. 95–27495 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER95–1286–000, ER95–1287–000, ER95–1288–000, ER95–1289–000, ER95–1290–000, and EL96–6–000; ER95–1319–000]

Public Service Electric and Gas Company and Atlantic City Electric Company; Notice of Initiation of Proceeding and Refund Effective Date

November 2, 1995.

Take notice that on October 27, 1995, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL96–6–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL96–6–000 will be 60 days after publication of this notice in the Federal Register.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27522 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR92–2–001]

Seagas Pipeline Co.; Notice of Abandonment of Section 311 Service and Request for Waiver of Rate Filing Requirement

November 1, 1995.

Take notice that on October 11, 1995, Seagas Pipeline Company (Seagas) filed a notification that it is terminating service under Section 311 of the Natural Gas Policy Act and that it is exercising its right of pregranted abandonment of transportation services, pursuant to Section 284.224(f) of the Commission's Regulations. It also requests waiver of the terms of the stipulation approved by the Commission on June 22, 1992, which required Seagas to make a new rate filing on or before November 1, 1994.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before November 16, 1995. The notice and request is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27494 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–19–000]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

November 1, 1995.

Take notice that on October 27, 1995, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet to become effective November 1, 1995:

Ninth Revised Sheet No. 42A

Texas Eastern asserts that the purpose of this filing is to comply with the Commission's order issued October 11, 1995 in Docket No. CP95–681–000.

Texas Eastern states that pursuant to Section 4 of the Natural Gas Act and in compliance with Ordering Paragraphs (A) and (D) of the Commission's October 11, 1995 Order, Texas Eastern is submitting a Limited Section 4 filing to revise and restate its Rate Schedule LLFT and LLIT maximum rates as more fully set out in the filing.

Texas Eastern respectfully requests that the Commission waive all necessary rules and regulations to permit the above referenced tariff sheet to become effective on November 1, 1995, the date that facilities authorized in the October 11, 1995 order will be placed into service.

Texas Eastern states that copies of the filing were served on the firm customers of Texas Eastern 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, 888 First 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 November 8, 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. 95–27496 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–24–000]

Texas Gas Transmission Corp.; Notice of Filing of Refund Report

November 1, 1995.

Take notice that on October 26, 1995, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a refund report detailing the pro rata refund to its eligible firm customers of an October 13, 1995, Gas Research Institute (GRI) refund of $560.470.00.

Texas Gas states that this refund report is being made to comply with Commission Order issued February 22, 1995, in Docket No. RP95–24–000 requiring each pipeline to file a refund report with the Commission within fifteen (15) days of making the refunds.

Texas Gas states that copies of the refund report were included with the refunds made on October 13, 1995, and served upon Texas Gas' jurisdictional customers receiving refunds.

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, 888 First 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 protests or motions should be filed on or before November 8, 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. 95–27492 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–119–003]

Young Gas Storage Company, Ltd.; Notice of Refund Report

November 1, 1995.

Take notice that on October 26, 1995, Young Gas Storage Company, Ltd. (Young) filed a refund report in Docket No. TM96–1–119–003. Young states that the filing and refunds were made in compliance with the Commission's Order of September 12, 1995 in the referenced Docket.

Young states that the report summarizes Young's refund of all Annual Charges Adjustment (ACA) surcharges previously collected from its customers. Young states that cash refunds were made by Young to each customer on October 4, 1995, with appropriate interest as provided in the Order.

Young further states that copies of Young's refund report filing have been served on Young's customers, the Colorado Public Utilities Commission, and all parties to the proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before November 8, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies for this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–27497 Filed 11–6–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. EA–100–A]

Application to Amend Electricity Export Authorization, San Diego Gas and Electric Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: San Diego Gas & Electric Company (SDG&E) has applied for renewal of its authority to transmit electric energy from the United States to Canada.

DATES: Comments, protests or requests to intervene must be submitted on or before December 7, 1995.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350.

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Mike Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electric energy from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act.

On April 19, 1994, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized SDG&E to transmit electric energy from the United States to the British Columbia Hydro and Power Authority on a non-firm basis at a maximum rate of transmission of 400 megawatts (FE Order No. EA–100). The term of the authorization was for a period of two years. On September 22, 1995, SDG&E filed an application with FE for renewal of this authority which expires on April 19, 1996. The exported energy would be delivered to Canada over transmission facilities owned by or under the control of members of the Western Systems Power Pool, of which SDG&E is a member.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order No. EA–100. Consequently, DOE proposes to use the electric reliability review prepared in FE Docket EA–100 in satisfaction of the statutory requirements of section 202(e) of the Federal Power Act. Similarly, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA–100 proceeding.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with: James F. Walsh, San Diego Gas & Electric Company, P.O. Box 1831, San Diego, CA 92112 AND Betty Cash Hunter, Power Contracts Administrator, San Diego Gas & Electric Company, P.O. Box 1831, San Diego, CA 92112.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on November 1, 1995.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–27550 Filed 11–6–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5325–7]

Agency Information Collection Activities Up for Review; Measures of Success for Compliance Assistance Reporting Form

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 2501 et seq.), this notice announces that the Information Collection Request (ICR) listed below is coming up for review. Before submitting the review package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before January 8, 1996.

ADDRESSES: Office of Enforcement and Compliance Assurance, US. EPA, 401 M St. MC 2201, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Lynn Vendinello, 202–260–2842 or 202–260–0500 (fax).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by this action are those which provide

compliance assistance through state programs.

Title: Measures of Success for Compliance Assistance Reporting Form. EPA ICR 1758.02. OMB Control Number XXX-XXX.

Abstract: This will be a voluntary collection of program information on the accomplishments of state and regional compliance assistance programs other than those operating under Section 507 of the Clean Air Act (CAA), which will be reporting the same information as part of a larger information collection request being conducted by EPA's Small Business Ombudsman Office pursuant to the requirement of that statute. The information will be collected so that EPA can better understand the effectiveness of compliance assistance programs vis a vis enforcement programs and so that success stories can be shared between state programs. This is a voluntary information collection request. The information will be used by EPA's Office of Enforcement and Compliance Assurance (OECA) in order to evaluate the effectiveness of regional and state compliance assistance programs as a supplementary tool to traditional enforcement methods. EPA regions and state programs will also use the information to learn about other compliance assistance programs. This information collection request will require a burden for third-parties; namely, the small businesses receiving the compliance assistance. States will be asking them about their increased knowledge of regulatory obligations and behavioral changes that result from the compliance assistance offered.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The number of state respondents is estimated to be 106 and they will be responding annually. The total annual recordkeeping burden for states is estimated to be 212 hours. The total annual reporting burden for states is estimated to be 2,438 hours. The average estimated total burden hours per state respondent is 25 hours. The number of third party respondents is expected to be 3,180. The total burden hours for third-parties is expected to be 3,180. The overall total burden hours is 5,618. The average estimated total burden hours per respondent is 1.7 hours. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: October 30, 1995.

Lynn Vendinello,

Special Assistant, Office of Enforcement and Compliance Assurance.

[FR Doc. 95–27565 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5326–4]

Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Masonite Corporation (EPA Project Number NC 92–01)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on October 20, 1995 the Environmental Protection Agency issued a permit under EPA's federal Prevention of Significant Deterioration (PSD) regulations to the applicant named above. The PSD permit grants approval to Masonite Corporation to construct and operate the Molded Products Line at the existing Masonite facility located in Ukiah, California.

DATES: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 8, 1996.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address the request to: Lisa Penaska (A–5–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1261.

SUPPLEMENTARY INFORMATION: The PSD permit requires the application of Best Available Control Technology (BACT) for VOC's. In addition, the permit is subject to certain conditions, including allowable emission rates as follows: VOC, 141.9 tpy; NO_x, 43.8 tpy; CO, 88.5 tpy; particulate matter (PM–10), 6.2 tpy; SO_x, 0.2 tpy.

Dated: October 23, 1995.

David P. Howekamp,

Director, Air and Toxics Division, Region 9.

[FR Doc. 95–27569 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5325–9]

Announcement of Availability of Academic Fellowships Sponsored by U.S. Environmental Protection Agency

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability of academic fellowships.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is offering Graduate Education Fellowships for masters and doctoral level students in environmentally related fields of study. Subject to availability of funding, the Agency plans to award approximately 100 new fellowships this year. Fellowships cover a period of 9–12 months for each fellowship year. Masters level students may receive support for up to two years. Doctoral students may be supported for a maximum of three years. The fellowship program provides up to $34,000 per year of support. This amount covers stipend, tuition, and expenses as described in the program announcement.

DATES: The deadline for receipt of pre-applications is December 15, 1995.

ADDRESSES: The full announcement and pre-application instructions are available by accessing the EPA Home Page on the Internet. The World Wide Web address is: http://www.epa.gov/oer/fellows. EPA can also be accessed on Gopher. If Internet access is not available, a hard copy may be obtained by writing to: ORD Fellowships, NCERQA (8701), U.S. EPA, Waterside Mall, Room 2426, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Fellowship Help Line, 202/260–3837.

SUPPLEMENTARY INFORMATION: Pre-applications may be submitted via electronic mail, fax, or express mail. To submit by e-mail, send to: ''feloship@pamail.epa.gov''.

To submit by fax, send to: 202/260–2039.

To submit by express mail, send to the address above.

Robert J. Huggett,

Assistant Administrator for Research and Development.

[FR Doc. 95–27571 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5326–2]

Risk Assessment and Risk Management Commission; Revision of Earlier Notice of Public Meetings—1995

November 17—Meeting Location Changed

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Risk Assessment and Risk Management Commission, established as an Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will meet on November 17 at One Washington Circle Hotel located at one Washington Circle, phone number 202–872–1680 from 8 am until 3 pm in Washington, D.C. Due to the increasing amount of public interest in our activities, the previously scheduled hotel conference room was not large enough to accommodate our space needs.

If the Federal Government shuts down during this timeframe, please call the hotel to ascertain whether the meeting has been cancelled due to budget constraints.

This amends an earlier notice published in the Federal Register on September 20, 1995 at (60 FR 48711) and dated September 13, 1995.

Dated: October 27, 1995.

Gail Charnley,

Executive Director, Commission on Risk Assessment and Risk Management.

[FR Doc. 95–27570 Filed 11–6–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2110]

Petition for Reconsideration of Actions in Rulemaking Proceedings

November 2, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed on or before November 22, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Wickenburg and Lake Havasu City, AZ) (MM Docket No. 90–468, RM–7380.)

Number of Petitions filed: 1.

Subject: Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation. (CC Docket No. 91–35.)

Number of Petitions filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Esperanza, PR.)

Number of Petitions filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–27468 Filed 11–6–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

Wakulla County for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–27532 Filed 11–6–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1074–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1074–DR), dated October 27, 1995, and related determinations.

EFFECTIVE DATE: October 27, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 27, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Florida, resulting from severe storms and flooding on October 13, 1995 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance and Hazard Mitigation Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

The counties of Martin and Palm Beach for Individual Assistance; the counties of Martin and St. Lucie for Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–27533 Filed 11–6–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1074–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1074–DR), dated October 27, 1995, and related determinations.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 27, 1995:

The County of Palm Beach for Hazard Mitigation Assistance. (Already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–27534 Filed 11–6–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1073–DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–1073–DR), dated October 23, 1995, and related determinations.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 23, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from a severe storm, high winds and flooding on October 4–6, 1995 is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation Assistance in the designated areas. Individual Assistance may be provided at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Carolina to have been affected adversely by this declared major disaster:

The counties of Ashe, Avery, Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, Transylvania, Watauga, Wilkes and Yancey Counties, and the Eastern Band of the Cherokee Indian Reservation for Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–27535 Filed 11–6–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

North Fork Bank, 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 December 1, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. North Fork Bank, Mattituck, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Extebank, Stony Brook, New York. Immediately upon consummation, Extebank will merge into North Fork Bank.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. FCNB Bancorp, Inc., Fayetteville, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Fayette County National Bank of Fayetteville, Fayetteville, West Virginia. Comments on this application must be received by November 20, 1995.

2. FCFT, Inc., Princeton, West Virginia; to acquire 100 percent of the voting shares of First Community Bank of Mercer County, Inc., Princeton, West Virginia, which will acquire the assets and assume the liabilities of the Mercer

County branch of First Community Bank, Inc., Princeton, West Virginia.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Security National Corporation, Sioux City, Iowa; to acquire 100 percent of the voting shares of Sheldon Security Bancorporation, Inc., Sheldon, Iowa, and thereby indirectly acquire at least 80 percent of the voting shares of Sheldon Security Financial Corporation, Sheldon, Iowa, and thereby control Security State Bank, Sheldon, Iowa.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of Eastern National Bank, Miami, Florida.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Irene Bancorporation, Inc., Sioux Falls, South Dakota, and thereby indirectly acquire Farmers State Bank, Viborg, South Dakota.

F. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Stine Family Partnership, and United Nebraska Financial Co., both of Grand Island, Nebraska; to acquire 100 percent of the voting shares of Lexington Bancshares, Inc., Lexington, Nebraska, and thereby indirectly acquire Lexington State Bank and Trust Company, Lexington, Nebraska.

Board of Governors of the Federal Reserve System, November 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27544 Filed 11–6–95; 8:45 am]

BILLING CODE 6210–01–F

Stichting Prioritieteit ABN AMRO Holding, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 21, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Stichting Prioritieteit ABN AMRO Holding; Stichting Adminstratiekantoor ABM AMRO Holding; ABN AMRO Holding, N.V.; and ABN AMRO BANK N.V., all of Amsterdam, The Netherlands; to acquire through their wholly-owned subsidiaries, Lease Plan (N.V.) Amersterdam, The Netherlands, and Lease Plan (U.S.A.), Inc., Atlanta, Georgia, Neville Leasing, Inc., Atlanta, Georgia, and thereby engage in motor vehicle leasing, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27545 Filed 11–6–95; 8:45 am]

BILLING CODE 6210–01–F

U.S. Trust Corporation, New York, New York; Notice to Engage in Certain Nonbanking Activities

U.S. Trust Corporation, New York, New York (Applicant), has applied pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23 of the Board's Regulation Y (12 CFR 225.23) to permit U.S. Trust Company of New Jersey, Princeton, New Jersey (Company) to engage in personal, residential mortgage, and small business lending activities. Company is a trust company operating pursuant to § 225.25(b)(3) of Regulation Y. Section 225.25(b)(3) does not permit a company performing trust company functions or activities to make loans of the kind proposed to be made by Company.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity that the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

Applicant asserts that the proposed lending activities should be permissible because bank holding companies are authorized to engage directly in, or to establish subsidiaries to engage in, lending activities under § 225.25(b)(1) of Regulation Y. Applicant argues that the restrictions against lending by trust companies are no longer justified in light of the applicability of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. No. 103-328, 108 Stat. 2338 (1994). Moreover, Applicant maintains that Company would not become a ''bank'' for purposes of the BHC Act, because Company is not an FDIC-insured institution, and it does not accept demand deposits. *See* 12 U.S.C. 1841(c)(1).

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities by Company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Applicant believes that the proposed activities will benefit the

public by enabling Applicant to provide a broader range of services to its customers and thereby enhance Applicant's ability to compete among local lending institutions.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 21, 1995. Any request for a hearing on this notice must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27546 Filed 11–6–95; 8:45 am]

BILLING CODE 6210–01–F

Vernon Haley Warren, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 21, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Vernon Haley Warren, Albany, Georgia; to retain a total of 12.67 percent of the voting shares of First State Corporation, Albany, Georgia, and thereby indirectly retain First State Bank & Trust Company, Albany, Georgia, and First State Bank & Trust Company, Cordele, Georgia.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Donald Grobowsky, Temple, Texas; to acquire an additional 16.7 percent, for a total of 26.6 percent, of the voting shares of Central Community Corporation, Temple, Texas, and thereby indirectly acquire First State Bank, Temple, Texas.

2. Jack H. Hart, Amarillo, Texas; to acquire an additional .21 percent, for a total of 10.20 percent, of the voting shares of Spearman Bancshares, Spearman, Texas, and thereby indirectly acquire Spearman Financial Corporation, Wilmington, Delaware, and thereby indirectly acquire First National Bank, Spearman, Texas.

Board of Governors of the Federal Reserve System, November 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27547 Filed 11–6–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 951–0140]

The Upjohn Company and Pharmacia Aktiebolag; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require The Upjohn Company and Pharmacia Aktiebolag to divest Pharmacia's assets in ''9–AC,'' a topoisomerase I inhibitor drug for the treatment of colorectal cancer, to a Commission-approved buyer who will ensure that research and development will continue in competition with the merged company's product ''CPT–11,'' a topoisomerase I inhibitor drug developed by Upjohn.

DATES: Comments must be received on or before January 8, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Ann Malester, Bureau of Competition, Federal Trade Commission, S–2308, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–2682.

Claudia Higgins, Bureau of Competition, Federal Trade Commission, S–2308, 6th Street & Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of The Upjohn Company, a corporation, and Pharmacia Aktiebolag, a corporation.

File No. 951–0140

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation of the merger of The Upjohn Company (''Upjohn'') and Pharmacia Aktiebolag (''Pharmacia''), and it now appearing that Upjohn and Pharmacia, hereinafter sometimes referred to as ''Proposed Respondents,'' are willing to enter into an Agreement Containing Consent Order to (i) divest certain assets, (ii) cease and desist from certain acts, and (iii) provide for certain other relief:

It is hereby agreed by and between Proposed Respondents, by their duly authorized officers and their attorneys, and counsel for the Commission that:

1. Proposed Respondent Upjohn is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 7000 Portage Road, Kalamazoo, Michigan 49001.

2. Proposed Respondent Pharmacia is a corporation organized, existing, and doing business under and by virtue of

the laws of Sweden, with its principal place of business located at Frösundaviks allé 15, S–171 97 Stockholm, Sweden.

3. Proposed Respondents admit all the jurisdictional facts set forth in the draft of complaint.

4. Proposed Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of complaint or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following Order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to Order to Pharmacia's counsel, Steven Sunshine, Esquire, of Shearman & Sterling at 801 Pennsylvania Avenue, NW., Washington, DC 20004–2604, and Upjohn's counsel, Stuart Meiklejohn, Esquire, of Sullivan & Cromwell at 125 Broad Street, New York, New York 10004, shall constitute service. Proposed Respondents waive any rights they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

8. Proposed Respondents have read the proposed complaint and Order contemplated hereby. Proposed Respondents understand that once the Order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the Order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final. By signing this Agreement, Proposed Respondents represent that the relief contemplated by this Agreement can be accomplished.

Order

I

It is ordered that, as used in this Order, the following definitions shall apply:

A. *Upjohn* means The Upjohn Company, its directors, officers, employees, agents and representatives, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Upjohn; and the respective directors, officers, employees, agents and representatives, and the respective successors and assigns of each.

B. *Pharmacia* means Pharmacia Aktiebolag, its directors, officers, employees, agents and representatives, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Pharmacia; and the respective directors, officers, employees, agents and representatives, and the respective successors and assigns of each.

C. *Respondents* means Upjohn and Pharmacia.

D. *Commission* means The Federal Trade Commission.

E. *Merger* means the combination of Upjohn and Pharmacia pursuant to a Combination Agreement dated August 20, 1995.

G. *9–AC* or *9-amino-20 (S)-camptothecin* means the semisynthetic compound which refers to the compound 1-pyrano [3′,4′:6,7] indolizino [1,2-b] quinoline-3,14 (4H,12H)-dione, 10-amino-4-ethyl-4-hydrozy-(S) in respect of its therapeutic indication for the treatment of cancer.

H. *CPT–11* or *irinotecan hydrochloride trihydrate* means the chemical compound which refers to the compound (+)-(4S)-4, 11-diethyl-4-hydrozy-9-[(4-piperidinopiperidino) carbonyl-oxyl]-1H-pyrano [3′,4′:6,7] indolizino [1,2-b] quinoline-3,14 (4H, 12H)-dione hydrochloride trihydrate.

I. *Pharmacia's 9–AC Assets* means an exclusive license to all Pharmacia's assets relating to the research and development of 9-AC for sale in the United States that are not part of Pharmacia's physical facilities or other tangible assets. ''Pharmacia's 9–AC Assets'' includes, but is not limited to, all formulations, patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, testing and quality control data, research data, technical information, stored on management information systems (and specifications sufficient for the Acquirer to use such information), proprietary software used in connection with Pharmacia's 9–AC, and all data, contractual rights, materials and information relating to obtaining FDA approvals and other government or regulatory approvals for the United States for Pharmacia's 9–AC. ''Pharmacia's 9–AC Assets'' also includes the assignment of all rights of Pharmacia to NCI patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, testing and quality control data, research materials, technical information, stored on management information systems (and specifications sufficient for the Acquirer to use such information), proprietary software used in connection with Pharmacia's 9–AC and all data, contractual rights, materials and information relating to obtaining FDA approvals and other government or regulatory approvals for the United States for Pharmacai 9–AC.

J. *Acquirer* means the entity to whom the Respondents shall divest Pharmacia's 9–AC Assets pursuant to this Order.

K. *Cost* means Pharmacia's actual per unit cost of manufacturing Pharmacia's 9–AC, which may be adjusted once annually to reflect any increases in Pharmacia's actual cost, provided, however, that for any year, the total rate of such adjustment with respect to all components of cost other than material and labor shall not exceed the rate of increases in the Consumer Price Index for such year.

II

It is further ordered that:

A. Respondents shall divest, absolutely and in good faith, within twelve (12) months of the date this Order becomes final, Pharmacia's 9–AC Assets.

B. Respondents shall divest Pharmacia's 9–AC Assets only to an Acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. Respondents shall obtain all necessary approvals and releases for such divestiture from NCI as a condition of the Commission's prior approval. The purpose of the divestiture of Pharmacia's 9–AC Assets is to ensure continued research and development of Pharmacia's 9–AC, in the same manner in which Pharmacia's 9–AC would be researched and developed absent the proposed Merger, and to remedy the lessening of competition resulting from the proposed Merger as alleged ion the Commission's Complaint.

C. At the Acquirer's option, Respondents shall enter into a supply agreement with the Acquirer. Such agreement, if entered into, shall be provided to the Commission as part of Respondents' application to the Commission for approval of the divestiture. This supply agreement shall include the following and Respondents shall commit to satisfy the following:

1. Respondents shall manufacture and deliver to the Acquirer in a timely manner the Acquirer's requirements for 9–AC at Respondents' Cost for a period not to exceed three (3) years from the date the divestiture is approved. This supply agreement can be cancelled at the request of the Acquirer.

2. Respondents shall make representations and warranties to the Acquirer that the 9–AC manufactured by Respondents for the Acquirer meets the United States Food and Drug Administration approved specifications therefor and are not adulterated or misbranded within the meaning of the Food, Drug and Cosmetic Act, 21 U.S.C. § 321, *et seq.* Respondents shall agree to indemnify, defend and hold the Acquirer harmless from any and all suits, claims, actions, demands, liabilities, expenses or losses alleged to result from the failure of the 9–AC manufactured for the Acquirer by Respondents to meet FDA specifications. This obligation shall be contingent upon the Acquirer giving Respondents prompt, adequate notice of such claim, cooperating fully in the defense of such claim, and permitting Respondents to assume the sole control of all phases of the defense and/or settlement of such claim, including the selection of counsel. This obligation shall not require Respondents to be liable for any negligent act or omission of the Acquirer or for any representations and warranties, express or implied, made by the Acquirer that exceed the representations and warranties made by Respondents to the Acquirer.

3. During the term of the supply agreement, upon reasonable request by the Acquirer, Respondents shall make available to the Acquirer all records kept in the normal course of business that relate to the cost of manufacturing 9–AC.

D. The time period for divestiture pursuant to Paragraph II. of this Order shall be tolled if and when Respondents:

1. Provide to the Commission objective evidence, including, but not limited to, results of clinical trials indicating that, based on 9–AC's or CPT–11's medical profile, and through no fault of Respondents, either Pharmacia's 9–AC or Upjohn's CPT–11 is not medically safe or efficacious for use in the treatment of colorectal cancer; and

2. Petition the Commission to modify this Order, pursuant to section 5(b) of the FTC Act and Section 2.51 of the Commission's Rules of Practice, based on the circumstances described in Subparagraph II.D.1. of this Order.

This tolling of the time period for divestiture shall end when the Commission rules on Respondents' petition to modify this Order.

III

It is further ordered that:

A. If Upjohn and Pharmacia have not divested, absolutely and in good faith and with the Commission's prior approval, Pharmacia's 9–AC Assets within the time required by Paragraph II.A., of this Order, the Commission may appoint a trustee to divest, at Pharmacia's option, either (1) an exclusive United States license and a nonexclusive worldwide (excluding the United States) license in perpetuity, and in good faith, to all Pharmacia's assets relating to the research and development of 9–AC for sale throughout the world or (2) an exclusive worldwide license, in perpetuity, and in good faith, to all Pharmacia's assets relating to the research and development of 9–AC for sale throughout the world. The trustee shall obtain all necessary approvals and releases for the applicable license from NCI. Neither the decision of the Commission to direct the trustee nor the decision of the Commission not to direct the trustee to divest a license shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.

B. If the trustee is directed under Subparagraph A. of this Paragraph to divest, at Phamacia's option, either (1) an exclusive United States license and a nonexclusive worldwide (excluding the United States) license or (2) an exclusive worldwide license, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondents which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest, at Pharmacia's option, either (1) an exclusive United States license and a nonexclusive worldwide (excluding the United States) license or (2) an exclusive worldwide license.

3. Within ten (10) days after the appointment of the trustee, Respondents shall execute a trust agreement that subject to the prior approval of the Commission, and in the case of a court-appointed trustee, of the court, transfers to the trustee all the rights and powers necessary to permit the trustee to assure Respondents' compliance with the terms of this Order. As part of the trustee agreement, the trustee shall execute confidentiality agreement(s) with Respondents.

4. The trustee shall have twelve (12) months from the date the Commission approves the appointment of the trustee to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court;

provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, facilities and technical information related to Pharmacia's 9–AC, or to any other relevant information, as the trustee may reasonably request, including but not limited to all records kept in the normal course of business that relate to research and development of, and the cost of manufacturing, Pharmacia's 9–AC. Respondents shall develop such financial or other information as the trustee may request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the Acquirer as set out in Paragraphs II and III of this order, as appropriate; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission. If requested by the trustee or Acquirer, Respondents shall provide the Acquirer with the assistance required by Paragraph IV. of this Order.

7. The trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents. The trustee's compensation shall be based at least in significant part on a Commission arrangement based on a percentage of the selling price of the assets divested.

8. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of, any claim whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this Order.

10. The Commission or, in the case of a court-appointed trustee, the court may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

11. The trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

12. if a divestiture application filed pursuant to this Paragraph III. is pending before the Commission, and Respondents petition the Commission to modify this Order based on the conditions in Paragraph II.D., then the Commission shall not approve the divestiture application until it rules on the petition to modify.

IV

It is further ordered that:

A. Upon reasonable notice and request from the Acquirer to Respondents, Respondents shall provide information, technical assistance and advice to the Acquirer with respect to Pharmacia's 9–AC Assets such that the Acquirer will be capable of continuing the current research and development. Such assistance shall include reasonable consultation with knowledgeable employees of Respondents and training at the Acquirer's facility for a period of time sufficient to satisfy the Acquirer's management that its personnel are adequately knowledgeable about Pharmacia's 9–AC Assets. however, Respondents shall not be required to continue providing such assistance for more than one (1) year after divestiture of Pharmacia's 9–AC Assets. Respondents may require reimbursement from the Acquirer for all of their own direct costs incurred in providing the services required by this Paragraph. Direct costs, as used in this Paragraph, means all actual costs incurred exclusive of overhead costs.

B. Upon reasonable notice and request from the Acquirer, Respondents shall provide information, technical assistance and advice sufficient to assist the Acquirer in obtaining all necessary FDA approvals to manufacture 9–AC for use in clinical trials in the United States. Upon reasonable notice and request from the Acquirer, Respondents shall also provide consultation with knowledgeable employees of Respondents and training at the Acquirer's facility for a period of time, not to exceed one (1) year, sufficient to satisfy the Acquirer's management that its personnel are adequately trained in the manufacture of 9–AC. Respondents may require reimbursement from the Acquirer for all of their own direct costs incurred in providing the services required by this Paragraph. Direct costs, as used in this Paragraph, means all actual costs incurred exclusive of overhead costs.

V

It is further ordered that Respondents shall comply with all terms of the Interim Agreement, attached to this order and made a part hereof as Appendix I. Said Interim Agreement shall continue in effect until the provisions in Paragraphs II., III. and IV. of this Order are complied with or until such other time as is stated in said Interim Agreement.

VI

It is further ordered that if, following approval of the divestiture required by Paragraph II. of this Order, disputes arise between Respondents and the Acquirer regarding: (1) fulfillment of the terms of the supply agreement described in Paragraph II.C of this Order; (2) the continuation of the clinical trials for the testing of 9–AC described in Attachment A to Appendix I of this Order; or (3) the continuation of the defense of existing patents and the pursuit of the filing of new patents relating to Pharmacia's 9–AC, the Acquirer may elect to cause the issue to be submitted to outside, independent, binding arbitration in the District of Columbia. In the event the Acquirer so elects, Respondents shall agree to submit to such arbitration, and the issue shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (''AAA'') and AAA's Supplementary Procedures for

International Commercial Arbitration or any successor rules thereto. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The decision of the arbitrator, after confirmation by the court pursuant to 9 U.S.C. 9, or succeeding statutory provisions, shall be final and binding upon the parties, and the failure of the Respondents thereafter to abide by the arbitrator's award shall be a violation of this Order.

VII

It is further ordered that:

A. Within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until Respondents have fully complied with the provisions of Paragraphs II.A. and II.B. or III. of this Order, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II., III., IV. and V. of this Order, including a description of all substantive contacts or negotiations for accomplishing the divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this Order becomes final, annually on the anniversary of the date this Order becomes final, and at all other times as the Commission may require, until Respondents have fully complied with Paragraphs II.C., IV. and V., Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with Paragraphs II.C., IV. and V. of this Order.

VIII

It is further ordered that, for the purpose of determining or securing compliance with this Order, Respondents shall permit nay duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents, relating to any matters contained in this Order; and

B. Upon five (5) days' notice to Respondents, and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present regarding such matters.

IX

It is further ordered that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in Respondents such as dissolution, assignment, sale resulting in the emergence of a successor, or the creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out this Order.

Appendix I

In the Matter of the Upjohn Company, a corporation, and Pharmacia Aktiebolag, a corporation.

File No. 951–0140

Interim Agreement To Maintain Research and Development

This Interim Agreement to Maintain Research and Development (''Interim Agreement'') is by and among Pharmacia Aktiebolag (''Pharmacia''), a corporation organized, existing, and doing business under and by virtue of the laws of Sweden, with its office and principal place of business at Frösundaviks allè 15, S–171 97 Stockholm, Sweden, The Upjohn Company (''Upjohn''), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 7000 Portage Road, Kalamazoo, Michigan 49001 and the Federal Trade Commission (''the Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, et seq. (collectively, the ''Parties'').

Premises

Whereas, on August 20, 1995, Pharmacia entered into a Combination Agreement with Upjohn providing for the combination of Pharmacia and Upjohn (hereinafter ''Merger''); and

Whereas, Pharmacia is involved in, among other things, the research and development of 9-Amino-20(S)-camptothecin (''9–AC''), a topoisomerase I inhibitor; and

Whereas, Upjohn is involved in, among other things, the research and development of Camptosar (''CPT–11''), a topoisomerase I inhibitor; and

Whereas, the Commission is now investigating the Merger to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), the Commission must place it on the public record for a period of at least (60) days and subsequently may either withdraw such acceptance or issue and serve its Complaint and decision in disposition of the proceeding pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the ongoing and future research of Pharmacia's 9–AC, as defined in Paragraph I of the Consent Order, during the period prior to the final acceptance of the Consent Order by the Commission (after the 60-day public comment period) and until the divestiture required by Paragraphs II or III of the Consent Order has been accompanied may not be possible and divestiture resulting from any proceeding challenging the legality of the Merger might not be possible, or might be less than an effective remedy; and

Whereas, the purpose of the Interim Agreement and the Consent Order is:

1. To ensure continued research and development of Pharmacia's 9-Ac in the same manner in which Pharmacia's 9-AC would be researched and developed absent the Merger; and

2. To preserve the Commission's ability to remedy any anticompetitive effects of the Merger; and

Whereas, Pharmacia's and Upjohn's entering into this Interim Agreement shall in no way be construed as an admission by Pharmacia and Upjohn that the Merger is illegal; and

Whereas, Pharmacia and Upjohn understand that no act or transaction contemplated by this Interim Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Interim Agreement;

Now, therefore, the Parties agree, upon the understanding that the Commission has not yet determined whether the Merger will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment, it will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Pharmacia and Upjohn agree to execute and be bound by the Consent Order.

2. Pharmacia agrees that from the date this Interim Agreement is accepted until the earliest of the time listed in subparagraphs 2.a.–2.b., it will comply with the provisions of Paragraph 4 of this Interim Agreement:

a. Three business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's rules;

b. The time that the divestiture obligations required by the Consent Order are completed.

3. Pharmacia and Upjohn agree to take such actions as are necessary to prevent the destruction, removal, wasting, deterioration or impairment of Pharmacia's 9–AC Assets, except for ordinary wear and tear.

4. With respect to the continued research and development of Pharmacia's 9–AC, Pharmacia agrees:

a. To continue to pursue its obligations under the Cooperative Research and Development Agreement with the National Cancer Institute and the previously determined 9–AC research and development plan, as set forth in confidential Attachment A to this Interim Agreement; and

b. To fund the research and development of Pharmacia's 9–AC at levels no less than those contained in the budget for 1995, as set forth in confidential Attachment B to this Interim Agreement; and

c. To use its best efforts to support and defend Pharmacia's rights relating to 9–AC in U.S. Patent # 5,106742 dated April 21, 1992 (Camptothecin Analogs as Potent Inhibitors of Topoisomerase I), U.S. Patent # 5,225,404 dated July 6, 1993 (Methods of Treating Colon Tumors with Tumor-Inhibiting Camptothecin Compounds), and U.S. Serial # 08/323081 filed October 14, 1994 (pending patent application for Lyophilizate of Lipid Complex of Water Insoluble Camptothecins); and

d. To use its best efforts to obtain all necessary approvals and releases from the National Cancer Institute to accomplish the requirements of Paragraphs II and III of the Consent Order; and

e. Within thirty days of acceptance of this Interim Agreement by the Commission, to have available for clinical trials at least sufficient inventory of Pharmacia's 9–AC sufficient to supply the clinical trials set forth in confidential Attachment A to this Interim Agreement that are likely to be initiated through November 1996.

5. Upjohn agrees to allow Pharmacia to fulfill its obligations under paragraphs 2 and 4 of this Interim Agreement, without restraint or interference from Upjohn.

6. Should the Commission seek in any proceeding to compel Pharmacia to divest itself of the Pharmacia 9–AC Assets, as provided in the Consent Order, or seek any other equitable relief relating to Pharmacia's 9–AC Assets, Pharmacia and Upjohn shall not raise any objection based on the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Merger. Pharmacia and Upjohn shall also waive all rights to contest the validity of this Interim Agreement.

7. Should the Commission, pursuant to Paragraph II.D of the Consent Order, act on a petition from Pharmacia and Upjohn to modify the Consent Order based on the circumstances described in Subparagraph II.D.1, this Interim Agreement shall be automatically modified to reflect any changes made by the Commission.

8. For the purpose of determining or securing compliance with this Interim Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to Pharmacia and Upjohn made to its General Counsel, Pharmacia and Upjohn shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Pharmacia and Upjohn and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondent, memoranda, and other records and documents in the possession or under the control of Pharmacia and Upjohn relating to compliance with this Interim Agreement; and

b. Upon five (5) days' notice to Pharmacia and Upjohn, and without restraint or interference from it, to interview officers or employees of Pharmacia and Upjohn, who may have counsel present, regarding any such matters.

9. This Interim Agreement shall not be binding until approved by the Commission.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted provisionally an agreement containing a proposed Consent Order from The Upjohn Company (''Upjohn'') and Pharmacia Aktiebolag (''Pharmacia''), under which Upjohn and Pharmacia will be required to divest U.S. assets relating to the research and development of a chemotherapeutic drug for the treatment of colorectal cancer (''Pharmacia's 9–AC Assets'') to a Commission approved purchaser. In addition, the Commission has accepted an Interim Agreement to Maintain Research and Development, under which Pharmacia and Upjohn will be required to continue fulfilling the previously established 9–AC research and development plan and its obligations to the National Cancer Institute.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

Pursuant to an agreement dated August 20, 1995, Upjohn and Pharmacia propose to merge their respective businesses in a transaction valued at approximately $13.9 billion. Based on 1994 sales, the combined company would rank among the top ten pharmaceutical manufacturers worldwide, and it would be the fifth largest drug company in the United States.

The proposed complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the market for the research, development, manufacturer and sale of topoisomerase I inhibitors for the treatment of colorectal cancer in the United States. Topoisomerase I inhibitors are a specific class of chemotherapeutic drugs that inhibit the multiplication of cancer cells inside the body. By curtailing cancer cell growth, topoisomerase I inhibitors may aid in the treatment of colorectal cancer, a form of cancer that does not respond well to currently available chemotherapy agents.

While no topoisomerase I inhibitor has yet been approved for sale in the United States, it is anticipated that sales of all topoisomerase I inhibitors for the treatment of colorectal cancer will exceed $100 million by 2002. Approximately 443,000 people in the United States are diagnosed with colorectal cancer each year. For most solid tumors, the first method of treatment is surgery, with radiation therapy and chemotherapy typically used as adjuncts to the surgery.

Current protocols for colorectal cancer suggest that patients be treated with the chemotherapy agents 5-fluorouracil

(''5FU'') and either leucovorin or levamisole. For those patients whose cancer recurs, the survival rate is only fifteen percent. Topisomerase I inhibitors are expected to increase the rate of survival for colorectal cancer patients.

The proposed Consent Order would remedy the alleged violation by replacing the lost competition that would result in the U.S. from the merger. Presently, only a very small number of companies worldwide are developing topoisomerase I inhibitors. Upjohn has the U.S. rights for CPT–11, a topoisomerase I inhibitor developed in Japan by Yakult Honsha and Daiichi. Pharmacia has the worldwide rights for 9–AC under a Cooperative Research and Development Agreement with the National Cancer Institute. Upjohn's and Pharmacia's products may be effective treatments for colorectal cancer. Because the information obtained during the Commission's investigation about the status of pharmaceutical research projects is highly confidential, the Commission cannot disclose publicly what, if any, other research projects are currently underway on topoisomerase I inhibitors.

Under the proposed Consent Order, Pharmacia and Upjohn are required to divest 9–AC assets relating to the research and development of 9–AC for sale in the United States. As a result, two independent pharmaceutical companies will continue to research and develop their respective topoisomerase I inhibitors in the United States following the proposed merger.

The proposed Order requires that if Upjohn and Pharmacia fail to divest the product within 12 months, a trustee will be appointed to divest Pharmacia's 9–AC Assets in the U.S. as well as either a worldwide exclusive or a nonexclusive worldwide (excluding the U.S.) license for 9–AC. The Order also requires Upjohn and Pharmacia to provide technical assistance and advice to ensure that the acquirer is capable of continuing present research and development and to produce 9–AC if needed by the Acquirer for its clinical trials.

An Interim Agreement is incorporated into the proposed Order to protect the ongoing research and development of 9–AC. In the Interim Agreement, Pharmacia and Upjohn commit to continue the planned research and development of 9–AC pending the divestiture required under the Order. The Interim Agreement remains in effect until Pharmacia has divested its 9–AC Assets pursuant to the Order.

Under the provisions of the order, Upjohn and Pharmacia are also required to provide the Commission a report of compliance with the divestiture provisions of the Order within sixty (60) days following the date the Order becomes final, and every sixty (60) days thereafter until Upjohn and Pharmacia have completed the required divestiture.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–27552 Filed 11–6–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home and Community-Based Services Waiver Requests; *Form No.:* HCFA–8003; *Use:* Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost and utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 140; *Total Annual Hours Requested:* 12,600.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collection should be sent within 60 days of this notice direct to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 26, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 95–27476 Filed 11–6–95; 8:45 am]

BILLING CODE 4120–03–P

Indian Health Service

[0917–ZA00]

Notice of Redesignation of Contract Health Service Delivery Area

AGENCY: Indian Health Service, HHS.

ACTION: Notice with request for comments.

SUMMARY: This Notice advises the public that the Indian Health Service (IHS) proposes to redesignate the geographic boundaries of the Contract Health Service Delivery Area (CHSDA) for the Confederated Tribes of the Chehalis Reservation, Washington (''the Tribes''). The Chehalis CHSDA currently is comprised of Grays Harbor and Thurston Counties in the State of Washington. These counties were designated as the Tribes' CHSDA in the Federal Register of January 10, 1984 (49 CFR 1291). It is proposed that Lewis County, Washington, be added to the existing CHSDA. This notice is issued under authority of 43 FR 34654, August 4, 1978.

DATES: Comments must be received on or before December 7, 1995.

ADDRESSES: Comments may be mailed to Betty J. Penn, Regulations Officer, Indian Health Service, Suite 450, 12300 Twinbrook Parkway, Rockville,

Maryland 20852. Comments will be made available for public inspection at this address from 8:30 a.m. to 5:00 p.m. Monday-Friday, beginning approximately 2 weeks after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Leslie M. Morris, Deputy Director, Division of Legislation and Regulations, Office of Planning, Evaluation and Legislation, Indian Health Service, Suite 450, 12300 Twinbrook Parkway, Rockville, Maryland 20852, Telephone 301/443–1116 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 4, 1978, the IHS published regulations establishing eligibility criteria for receipt of contract health services (CHS) and for the designation of CHSDAs (43 FR 34654, codified at 42 CFR 36.22, last published in the 1986 version of the Code of Federal Regulations). On September 16, 1987, the IHS published new regulations governing eligibility for IHS services. Congress has repeatedly delayed implementation of the new regulations by imposing annual moratoriums. Section 719(a) of the Indian Health Care Amendments of 1988, Pub. L. 100–713, explicitly provides that during the period of the moratorium placed on implementation of the new eligibility regulations, the IHS will provide services pursuant to the criteria in effect on September 15, 1987. Thus the IHS CHS program continues to be governed by the regulations contained in the 1986 edition of the Code of Federal Regulations in effect on September 15, 1987. See 43 CFR 36.21 *et seq.* (1986).

As applicable to the Tribes, these regulations provide that, unless otherwise designated, a CHSDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation (42 CFR 36.22(a)(6) (1986)). The regulations also provide that after consultation with the tribal governing body or bodies of those reservations included in the CHSDA, the Secretary may, from time to time, redesignate areas within the United States for inclusion in or exclusion from a CHSDA. The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of contract health services.

Additionally, the regulations require that any redesignation of a CHSDA must be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). In compliance with this requirement, we are publishing this proposal and requesting public comment.

The request of the Confederated Tribes of Chehalis Reservation to expand their CHSDA was presented in their Tribal Resolution 1994–38, dated August 17, 1994. The Tribes' request will expand their current CHSDA, which incorporates Grays Harbor and Thurston Counties in the State of Washington, to include Lewis County, Washington.

Under 42 CFR 36.23 those otherwise eligible Indians who do not reside on a reservation but reside within a CHSDA must be either members of the tribe or maintain close economic and social ties with the tribe. In this case, the tribe estimates that the current eligible CHS population will be increased by 25 individuals consisting of 13 enrolled Chehalis tribal members and 12 non-Chehalis members not currently covered because these individuals have no close economic and social ties with the Yakama but do with the Chehalis.

In applying the aforementioned CHSDA redesignation criteria required by operative regulations (43 FR 35654), the following findings are made:

1. Lewis County is contiguous with Thurston County. Both counties are within the State of Washington.

2. Lewis County is part of the Tribes' traditional territory and many tribal members retain ownership of public domain allotments there.

3. The Tribes share co-management responsibility with the State of Washington for 2,600 square miles of rivers and streams in the Chehalis River Basin, which includes Lewis County. Lands adjacent to the Chehalis River have historically been considered in defining the original tribal homeland.

4. The majority of potential new CHS users who reside in Lewis County are within 15 miles of the Tribes limited direct care facility and depend on the Tribes for their health care requirements.

5. The nearest IHS comprehensive health center available to provide care for these beneficiaries is located in Toppenish, Washington, which is 150 miles away.

6. The current CHS patient care resources available to the tribes total $331,364 for 392 users. Per capita combined workload units (CWUs) are estimated at 5.7. The estimated costs associated with this request are $21,090 and are calculated as follows:

392 current users × 5.7 CWUs=2,234 CWUs

$331,364 (current funding)/2,234 CWUs=$148 per CWU

$148 × 25 (new users) × 5.7 CWUs=$21,090

7. The financial resources required to meet the immediate needs of potential Lewis County users will not be substantial and will be absorbed by that tribe's total health care program within available resources.

Since CHS is a critical component of the Tribes' overall health care system for its members, the Tribes feels that the members living in Lewis County, Washington, should be included within the CHSDA for the Tribes.

Accordingly, after considering the Tribes' request in light of the criteria specified in the regulations, I am proposing to redesignate the CHSDA of the Tribes to consist of Grays Harbor, Thurston, and Lewis counties of the State of Washington.

This notice does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Dated: October 31, 1995.

Michel E. Lincoln,

Deputy Director.

[FR Doc. 95–27564 Filed 11–6–95; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel—Genetics.

Date: November 6.

Time: 8:30 a.m.—adjournment.

Place: National Institutes of Health, 45 Center Drive, Natcher Building, Room F2, Bethesda, MD 20892–6200.

Contact Person: Dr. Arthur Zachary, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892–6200.

Purpose: To review and evaluate grant applications.

Committee Name: National Institute of General Medical Sciences Special Emphasis

Panel—Cellular and Molecular Basis of Disease.

Date: November 6–7.

Time: 8:30 a.m.—adjournment.

Place: National Institutes of Health, 45 Center Drive, Natcher Building, Room F2 Bethesda, MD 20892–6200.

Contact Person: Dr. Carole Latker, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–13K, Bethesda, MD 20892–6200.

Purpose: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to these meetings due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].)

Dated: October 31, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27638 Filed 11–6–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 13, 1995.

Time: 11 a.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Land, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 17, 1995.

Time: 11:30 a.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 17, 1995.

Time: 1:30 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 29, 1995.

Time: 2 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone 301, 443–4843.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This meeting is being published less than fifteen days prior to the first three meetings due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: November 1, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–27637 Filed 11–6–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3917–N–28]

Office of the Assistant Secretary for Housing-Federal Housing Commissioner; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be 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.

DATES: Comments due: January 8, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information 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 will 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 appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Assignment regulations require approved mortgagees to record mortgage assignments under 24 CFR section 203.350 and section 221.770.

OMB Control Number: 2502–0413.

Description of the need for the information and the proposed use: HUD regulations require that the mortgagees record the assignment of the mortgage to HUD within 30 days after the date of the Field Office's letter authorizing the assignment and submit claim forms and support documentation on the date the assignment is filed for record (24 CFR, section 203.250(a), Assignment of Defaulted Mortgages).

Agency form numbers: Not applicable.

Members of affected public: Mortgagees.

An estimation of the total numbers of hours needed to prepare the information collection is 8,989, number of respondents is 17,978 frequency

response is monthly and the hours of response is .5 of an hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 27, 1995.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–27519 Filed 11–6–95; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–29]

Office of the Assistant Secretary for Community Planning and Development; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be 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.

DATES: Comments due: January 8, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Sheila E. Jones, Department of Housing & Urban Development, 451—7th Street, SW., Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: For copies of the proposed forms and other available documents: Mary Douglas, 202–708–6304 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

In Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information 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 will 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 appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Supportive Housing Program Renewal Application.

OMB Control Number, if applicable: 2506–0134.

Description of the need for the information and proposed use: The information is needed to assist HUD in determining at what level existing programs receiving funds under the Supportive Housing Program (SHP), Supportive Housing Demonstration Program (SHDP) and the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) Program should receive renewal grants as stipulated in the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11301 *et seq.* and section 583.235 of the program rules.

Agency form numbers, if applicable: HUD–40109.

Members of affected public: State and local governments, nonprofit organizations, Indian Tribes.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Number of respondents—215; frequency of response—once; hours per response—20.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 1, 1995.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 95–27520 Filed 11–6–95; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–6979–D]

Alaska Native Claims Selection; Notice

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Shaan-Seet, Incorporated for 43.42 acres. The lands involved are in the vicinity of Craig, Alaska.

Copper River Meridian, Alaska

T. 74 S., R. 82 E.,
Secs. 11, 16 and 27.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until December 7, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia K. Underwood,

Land Law Examiner, Branch of Gulf Rim Adjudication.

[FR Doc. 95–27509 Filed 11–6–95; 8:45 am]

BILLING CODE 4310–JA–P

[UT–920–06–1320–00]

Public Hearing and Call for Public Comment on Fair Market Value and Maximum Economic Recovery

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of public hearing and call for public comment on fair market value and maximum economic recovery; coal lease application UTU–67939.

SUMMARY: The Bureau of Land Management announces a public hearing on a proposed coal lease sale and requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale. The lands included in coal lease application UTU–67939 are located in Carbon County, Utah, approximately 3 miles west of Scofield, Utah, within the

Manti-LaSal National Forest and are described as follows:

T. 12 S., R. 6 E., SLM
Section 26, S½SE¼, SE¼SW¼;
Section 34, lots 1–4, S½NE¼, SE¼NW¼, E½SW¼NE¼, N½S½;
Section 35, all.
T. 13 S., R. 6 E., SLM
Section 2, all;
Section 3, all;
Section 10, lots 1–2, NE¼, E½NW¼;
Section 11, N½, N½S½.

Containing 3,291 acres, more or less.

Two economically minable coal beds, the Lower O'Connor and Upper O'Connor are found in this tract. The Lower O'Connor seam averages 9.1 feet in thickness and the Upper O'Connor seam averages 6.3 feet in thickness. This tract contains an estimated 22 to 28 million tons of recoverable high-volatile C bituminous coal. The range of coal quality in the seams on an as received basis is as follows: 12,627–12,756 BTU/lb., 5.95–7.5 percent moisture, .44–.53 percent sulfur, 4.02–4.63 percent ash, 44.69–45.81 percent fixed carbon, and 42.68–44.73 percent volatile matter. The public is invited to the hearing to make public or written comments on the proposal to lease and also to submit comments on the fair market value and the maximum economic recovery of the tract.

SUPPLEMENTARY INFORMATION: In accordance with Federal coal management regulations 43 CFR 4322 and 4325, a public hearing shall be held on the proposed sale to allow public comment on and discussion of the potential effects of mining and proposed lease. Not less than 30 days prior to the publication of the notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Utah State Office during regular business hours (8:00 a.m. to 4:00 p.m.) Monday through Friday.

Comments on fair market value and maximum economic recover should be sent to the Bureau of Land Management and should address, but not necessarily be limited to, the following information:

1. The quality and quantity of the coal resource.
2. The mining method or methods which would achieve maximum economic recovery of the coal, including specifications of seams to be mined and the most desirable timing and rate of production.
3. The quantity of coal.
4. If this tract is likely to be mined as part of an existing mine and therefore be evaluated on a realistic incremental basis, in relation to the existing mine to which it has the greatest value.
5. If this tract should be evaluated as part of a potential larger mining unit and evaluated as a portion of a new potential mine (i.e., a tract which does not in itself form a logical mining unit).
6. The configuration of any larger mining unit of which the tract may be a part.
7. Restrictions to mining which may affect coal recovery.
8. The price that the mined coal would bring when sold.
9. Costs, including mining and reclamation, of producing the coal and the time of production.
10. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given.
11. Depreciation and other tax accounting factors.
12. The value of any surface estate where held privately
13. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area.
14. Any comparable sales data of similar coal lands.

Coal values developed by BLM may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

DATES: The public hearing will be held at the Carbon County Courthouse, Commission Chamber, 120 East Main, Price, Utah, at 7:00 p.m. on December 6, 1995. Comments on fair market value and maximum economic recovery must be received at the Bureau of Land Management, Utah State Office, by January 15, 1996.

FOR FURTHER INFORMATION CONTACT: Max Nielson, 801–539–4038, Bureau of Land Management, Utah State Office, Division of Mineral Resources, P.O. Box 45155, Salt Lake City, Utah, 84145–0155.

Dated: October 31, 1995.

G. William Lamb,

Acting State Director.

[FR Doc. 95–27540 Filed 11–6–95; 8:45 am]

BILLING CODE 4310–DQ–M

[NV–942–06–1420–00]

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: Robert H. Thompson, Acting Chief, 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 Plat of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on December 19, 1995:

The plat, in two sheets, representing the dependent resurvey of a portion of the south boundary of Township 30 North, Range 58 East; and the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, and the survey of a portion of the south boundary, a portion of the subdivisional lines, and the subdivision of certain sections, Township 29 North, Range 58 East, Mount Diablo Meridian, Nevada, under Group No. 737, was accepted October 19, 1995. This survey was executed to meet certain administrative needs of the U.S. Forest Service.

2. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those lands listed under item 1 are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to December 19, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The above-listed survey is now the basic record for describing the lands for all authorized purposes. This survey has been placed in the open files in the BLM Nevada State Office and is available to the public as a matter of information. Copies of the survey and related field

notes may be furnished to the public upon payment of the appropriate fees.

Dated: October 26, 1995.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 95–27477 Filed 11–6–95; 8:45 am]

BILLING CODE 4310–HC–P

National Park Service

Availability of Plan of Operations and Environmental Assessment for Continuing Operations or 2 Gas Wells (Cecil #1 and Cecil #2) Devon Energy Corporation, Lake Meredith National Recreation Area, Hutchinson County, Texas

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Devon Energy Corporation a Plan of Operations for continuing operations of 2 gas wells within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from publication date of this notice in the Office of the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Support Office, National Park Service, 1220 South St. Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, Post Office Box 1460, Fritch, Texas 79036, and will be sent upon request.

Dated: October 13, 1995.

Patrick McCrary,

Superintendent, Lake Meredith National Recreation Area.

[FR Doc. 95–27513 Filed 11–6–95; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Assessment for Continuing Operations or 40 Oil and Gas Wells; Mustang Oil and Gas Corporation, Lake Meredith National Recreation Area, Hutchinson County, Texas

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Mustang Oil and Gas Corporation a Plan of Operations for continuing operations of 40 oil and gas wells within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from publication date of this notice in the Office of the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Support Office, National Park Service, 1220 South St. Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, Post Office Box 1460, Fritch, Texas 79032, and will be sent upon request.

Dated: October 13, 1995.

Patrick McCrary,

Superintendent, Lake Meredith National Recreation Area.

[FR Doc. 95–27514 Filed 11–6–95; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 28, 1995. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 22, 1995.

Carol D. Shull,

Keeper of the National Register.

CALIFORNIA

San Francisco County

Matson Building and Annex, 215 Market St., San Francisco, 95001384
Pacific Gas and Electric Company General Office Building and Annex, 245 Market St., San Francisco, 95001385

MICHIGAN

Charlevoix County

Chicago and West Michigan Railroad Charlevoix Station, Chicago Ave., Charlevoix, 95001393
Loeb Farms Barn Complex, 05052 M–66 Hwy. N., SE of Charlevoix, Marion Township, Charlevoix vicinity, 95001392

Dickinson County

Graved Rock Site, Address Restricted, Kingsford vicinity, 95001389
Menominee River Park Archaeological District, Address Restricted, Kingsford vicinity, 95001388
Up Stream Put-In Site, Address Restricted, Kingsford vicinity, 95001390

Saginaw County

State Street Bridge, State St. (Fort Rd.) over the Cass R., Bridgeport, 95001391

Tuscola County

Millington Bank Building, 8534 State St., Millington, 95001387

Washtenaw County

Delta Upsilon Fraternity House, 1331 Hill St., Ann Arbor, 95001394
Stone School, 2600 Packard Rd., Ann Arbor, 95001386

NORTH CAROLINA

Gaston County

US Post Office, Former, 115 N. Main St., Belmont, 95001401

Hertford County

Harrellsville Historic District, Roughly, E. and W. Main St., Quebec St. and Tar Landing Rd., Harrellsville, 95001398

Lee County

Sanford High School, Former (Lee County MPS) 507 N. Steele St., Sanford, 95001400

Martin County

Sunny Side Inn, 1102 Washington St., Williamston, 95001396

Mecklenburg County

Wesley Heights Historic District, Bounded by W. Morehead St., Woodruff Pl., Lela Ave., CSX RR tracks, Tuckaseegee Rd., W. Trade St. and S. Summit Ave., Charlotte, 95001397

Vance County

Library and Laboratory Building—Henderson Institute, Rock Spring St., Henderson, 95001399

TEXAS

Bastrop County

Smithville Residential Historic District, Roughly bounded by Cleveland, First, Mills, N. 9th, Burleson, Colorado, and the Colorado R., Smithville, 95001395

[FR Doc. 95–27506 Filed 11–6–95; 8:45 am]

BILLING CODE 4310–70–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 amended consent decree (''Amended Decree'') in *United States* v. *Government of the Virgin Islands*, Civil Action No. 84–104, as well as a Stipulated Modifications of Consent Decree (''Stipulation''), were lodged on October 11, 1995 with the

United States District Court for the Virgin Islands.

In March 1984, the United States filed a complaint against the Government of the Virgin Islands (''VI'') alleging violations of the Clean Water Act, 33 U.S.C. § 1251 *et seq.* (the ''Act''). In September 1985, the United States and the VI entered into a consent decree (''Original Decree'') to resolve the claims in the complaint. In March 1991, the United States filed a motion seeking to hold the VI in contempt for certain violations of the Original Decree. The Amended Decree and Stipulation are a resolution of this motion for contempt.

Pursuant to the Amended Decree and the Stipulation, the VI will pay a penalty of $375,000 for violations of the Original Decree. The VI has also agreed, *inter alia*, to (1) construct a new wastewater treatment plant on St. Thomas, known as the Mangrove Lagoon Regional Wastewater Treatment Plant, pursuant to a revised timetable, (2) construct a new wastewater treatment plant on St. John, known as the Cruz Bay Regional Wastewater Treatment Plant, (3) place $2 million into a corrective action trust fund over a period of two years to fund certain specific operational improvements at nine wastewater treatment plants operated by the VI (these plants include Charlotte Amalie, Donoe, Old Tutu, New Tutu, Nadir, Bordeaux, Brassview, Vessup Bay, and St. Croix), and (4) meet interim effluent limits for a certain period of time, after which final Territorial Pollution Discharge Elimination System permit limits would be met, at the nine wastewater treatment plants listed above, as well as at the Brassview and George Simmonds plants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Amended Decree and Stipulation. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Government of the Virgin Islands*, DOJ. No. 90–5–1–1–1911A.

The proposed Amended Decree and Stipulation may be examined at the Region 2 Office of the Environmental Protection Agency, 290 Broadway, New York, NY, at the U.S. Attorney's Office, Federal Building and U.S. Courthouse, 5500 Veterans Drive, Suite 260, St. Thomas 00802–6424, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Amended Decree and Stipulation may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy of the proposed Amended Decree and Stipulation please refer to the referenced case and enclose a check in the amount of $16.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–27479 Filed 11–6–95; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 111–95]

Privacy Act of 1974; Notice of Modified System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following system of records—previously published November 4, 1994 (59 FR 55292):

The Immigration and Naturalization Service (INS) Alien File (A–File) and Central Index System (CIS), Justice/INS–001A.

Specifically, INS has added a new routine use disclosure identified as routine use P. Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the proposal.

Therefore, please submit any comments on or before December 7, 1995. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Systems Policy Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: October 25, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICEANS–001A

SYSTEM NAME:

The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS).

SYSTEM LOCATION:

Headquarters, Regional, District, and other INS file control offices in the United States and foreign countries as detailed in JUSTICE/INS–999. Remote access terminals will also be located in other components of the Department of Justice and in the Department of State on a limited basis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals covered by provisions of the Immigration and Nationality Act of the United States.

B. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive Orders, and Presidential proclamations administered by INS, and witnesses and informants having knowledge of such violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. The computerized indexing system contains personal identification data such as A-File number, name, date and place of birth, date and port of entry, as well as the location of each official hardcopy paper file known as the ''A-file.'' Microfilm records contain naturalization certificates and any supporting documentation prior to April 1, 1956; however, after that date, this type of information is maintained in the ''A-File'' which is described in B below.

B. The hard copy A-file (prior to 1940 were called Citizenship File (C-File)) contains all the individual's official record material such as naturalization certificates; various forms, applications and petitions for benefits under the immigration and nationality laws; reports of investigations; statements; reports; correspondence; and memorandums on each individual for whom INS has created a record under the Immigration and Nationality Act.

AUTHORITY FOR MAINTENANCE OF RECORDS:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 8 U.S.C. 1360), and the regulations pursuant thereto.

PURPOSE:

The system is used primarily by INS and other Department of Justice employees to administer and enforce the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and the referral of such violations for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. To other Federal, State, and local government law enforcement and regulatory agencies and foreign governments, including the Department of Defense and all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, and INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or during a proceeding within the purview of the immigration and nationality laws to elicit information required by INS to carry out its functions and statutory mandates.

D. To a Federal, State, local or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, and/or charged with investigating, prosecuting, enforcing or implementing civil and/or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

E. A record, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which INS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS to be arguably relevant to the litigation: (i.) INS, or any subdivision thereof, or (ii.) any employee of INS in his or her official capacity, or (iii.) any employee of INS in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (iv.) the United States, where INS determines that the litigation is likely to affect it or any of its subdivisions.

F. To a Federal, State, local or foreign government agency in response to its request, in connection with the hiring or retention by such agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the letting of a contract, or the issuance of a license, grant, loan or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. To a Federal, State, local or foreign government agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of INS concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

H. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

I. To other Federal agencies for the purpose of conducting national intelligence and security investigations.

J. To an applicant, petitioner or respondent or to his or her attorney or representative as defined in 8 CFR 1.1(j) in connection with any proceeding before INS.

K. To a Federal, State, or local government agency to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the United States government, and/or to obtain information that may assist INS in collecting debts owed to the United States Government; to a foreign government to assist such government in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to it provided that the foreign government in question (1) provides sufficient documentation to establish the validity of the stated purpose of its request, and (2) provides similar information to the United States upon request.

L. To student volunteers whose services are accepted pursuant to 5 U.S.C. 3111 or to students enrolled in a college work study program pursuant to 42 U.S.C. 2751 et seq.

M. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of a personal privacy.

N. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

O. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

P. To an obligor, any information which may aid the obligor in locating an individual who has failed to appear at a deportation hearing, exclusion or other similar proceeding, and for whom the obligor had posted an immigration bond in an effort to secure such appearance by such individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Most A-file and C-file records are paper documents and are stored in file folders. Some microfilm and other records are stored in manually operated machines, file drawers, and filing cabinets. Those index records which can be accessed electronically are stored in a data base on magnetic disk and tape.

RETRIEVABILITY:

These records are indexed and retrieved by A-file or C-file number, name, and/or date of birth.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked during non-duty office hours. Many records are stored in cabinets or machines which are also locked during non-duty office hours. Access to automated records is controlled by passwords and name identifications.

RETENTION AND DISPOSAL:

A-file records are retained for 75 years from the closing date or date of last action and then destroyed. C-file records are to be destroyed 100 years from March 31, 1956. Automated index records are retained only as long as they serve a useful purpose and then they are deleted from the system disk and/or tape.

SYSTEM MANAGER(S) AND ADDRESS:

The Servicewide system manager is the *Assistant Commissioner, Office of*

Records, Office of Examinations, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above, the nearest INS office, or the INS office maintaining desired records, if known, by using the list of principal offices of the Immigration and Naturalization Service Appendix: JUSTICE/INS–999, published in the Federal Register.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) officer at one of the addresses identified above. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name, date and place of birth, and notarized signature of the individual who is the subject of the record, and any other information which may assist in identifying and locating the record, and a return address. For convenience, INS Form G–639, FOIA/PA Request, may be obtained from the nearest INS office and used to submit a request for access.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelop ''Privacy Act Request.'' The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information contained in INS records is supplied by individuals on Department of State and INS applications and forms. Other information comes from inquiries and/or complaints from members of the general public and members of congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports to investigations, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other entities, including Federal, State, and local governments, various courts and regulatory agencies, foreign government agencies and international organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4); (d); (e) (1), (2), and (3); (e)(4)(G) and (H); (e)(5) and (8); and (g) of the Privacy Act. These exemptions apply to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552 (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register and codified as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

[FR Doc. 95–27480 Filed 11–6–95; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 112–95]

Privacy Act of 1974 as Amended by the Computer Matching and Privacy Protection Act of 1988

This notice is published in the Federal Register in accordance with the requirements of the Privacy Act, as amended by the Computer Matching and Privacy Protection Act of 1988 (CMPPA) (5 U.S.C. 552a(e)(12)). The Department of Justice (DOJ) proposes to participate with the United States Postal Service (USPS) in a computer matching program. The matching activity will enable the DOJ to determine whether a delinquent debtor whose debt has been referred to the DOJ for enforced collection action is also a current or former USPS employee whose salary or other federal benefit is subject to offset to satisfy the delinquent debt.

Legal authority for conducting the matching program is supplied by the following statutes and regulations, applicable to the parties, which authorize agencies to collect, or refer to other agencies for collection, delinquent debts owed to the United States and/or which specifically authorize collection by salary or other administrative offset to satisfy such debts: The Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 3711 Collection and Compromise, 3716 Administrative Offset, 5 U.S.C. 5514(a) and note (Installment Deduction for Indebtedness (Salary Offset)); 4 CFR ch. II, Federal Claims Collection Standards (General Accounting Office—Department of Justice); and Office of Management and Budget (OMB) Circular No. A–129 (Revised), ''Policies for Federal Credit Programs and Non-Tax Receivables,'' 58 FR 5776 (January 22, 1993), directing agencies to make arrangements for annual matching of their delinquent debtor files against federal employment rosters.

The records to be used in the match (including the Privacy Act systems of records) and the roles of the matching participants are described as follows:

1. The DOJ will use records from its system, ''Debt Collection Offset Payment System, Justice/JMD–009,'' which contains records of about 50,000 delinquent debtors. Routine use (b) of that system which was last published at 59 FR 17,111, on April 11, 1994, permits the disclosure.

2. The USPS will use records from its system ''Finance Records—Payroll System, USPS 050.020,'' containing records of about 800,000 employees. Routine use 24 of USPS 050.020, which last appeared at 57 FR 57515 on December 4, 1992, covers the disclosure.

The USPS, the source agency in this match, will compare against its data base of employee records a data extract provided by the DOJ on magnetic tape and containing the name and SSN of each delinquent debtor. For each ''hit'' (individual common to both files, based on matching SSN's), USPS will provide to the DOJ, the recipient agency in the match, the name, SSN, date of birth, home address, place of work and employee type (e.g. permanent or temporary). After independent verification of the matched data and appropriate notice to the matching subjects, the DOJ will request that USPS offset the salary of individuals verified as being both USPS employees and delinquent debtors not in a repay status.

Matching activity will be effective on the expiration of 30 days after publication of this notice of the proposed matching activity in the Federal Register or 40 days after the Congress and OMB have been notified of the program, whichever is later, and will continue for a period of 18 months from the effective data, unless extended by the Data Integrity Boards of the respective agencies.

The matching agreement and the required report have been provided to OMB and the Congress in accordance with 5 U.S.C. 552a(o)(2)(A) and (r). Inquiries may be addressed to Patricia E. Neely, Program Analyst, Systems Policy Staff, Justice Management Division, Department of Justice, Room 850, Washington Center Bldg., Washington, DC 20530.

Dated: October 30, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 95–27541 Filed 11–6–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. Interstate Bakeries Corp. and Continental Baking Company

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (c)–(h), the United States publishes below the comment received on the proposed final Judgment in *United States* v. *Interstate Bakeries Corp. and Continental Baking Company*, Civil Action No. 95C 4194, filed in the United States District Court for the Northern District of Illinois, Eastern Division, together with the United States' response to that comment.

Copies of the comment and response to comment are available for inspection and copying in Room 207 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530 (telephone: (202) 514–2481), and at the office of the Clerk of the United States District Court for the Northern District of Illinois Eastern Division, 219 S. Dearborn, 20th Floor, Chicago, Illinois, 60604. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

September 29, 1995.

Anthony V. Nanni, Chief, Litigation I Section, Antitrust Division,
United States Department of Justice
1401 H Street, NW., Suite 4000,
Washington, DC 20530.

Dear Mr. Nanni and associates: Thank you for the opportunity to comment on the Proposed Final Judgment and Competitive Impact Statement in U.S. v. Interstate Bakeries Corp. and Continental Baking Company. From 1978 until 1992 I was an employee of Continental Baking Company (''Continental'') and became intimately familiar with its bakeries, distribution, and marketing. I continue to follow the company and the wholesale baking industry in general, and produce an independent newsletter for employees and investors of Continental and now Interstate Baking Corp. (''Interstate''). I will draw upon this experience in my comments.

I. Competitive Impact of the Merger of Interstate and Continental

The Antitrust division has well documented the near monopoly Interstate now holds in the Chicago, Milwaukee, central Illinois, Los Angeles, and San Diego markets for branded While Pan Bread. The merger has also given Interstate a virtual monopoly in the Oxnard and Mohave, California, southern Idaho, western Colorado, and Casper and Rock Springs, Wyoming markets; left it with only one substantial competitor in the San Luis Opisbo, Carbondale, Illinois, and central Missouri markets; and only two substantial competitors in the eastern Virginia, Raleigh, North Carolina, Kansas City, Bakersfield, Cincinnati, southeast Kansas, southwest Missouri, and western Montana markets. A quick bit of mathematics shows that a merger which restricts a market to only, two, or even three substantial competitors produces a HHI which easily exceeds the Antitrust Division's standards for challenge of said merger.

II. Remedy

The Antitrust division in its wisdom has included in the stipulation a requirement that sufficient assets of the merged company be divested to allow the new competitor(s) to ''remain a viable competitor in the White Pan Break market''. Creating viable competitor(s) in this market will require the divestment of the following assets:

1. To realize the economies of scale needed in advertising and promotion the obvious choice for divestment is the only single cohesive brand available over the several markets targeted for divestment, Wonder. To allow cost effective purchase of advertising the areas of divestment must be expanded to more closely conform with established newspaper circulation and broadcast reception areas. This will require expansion of the area of divestment to include the central California, Colorado, southern Idaho, southern Illinois, Iowa, eastern Kansas, Missouri, western Montana, eastern North Carolina, southwest Ohio, eastern Virginia, Utah, and Wyoming market areas.

2. As the new competitor(s) created by the divestment will need to maintain continuity in the production of the divested bakeries, and in fact much of Continentals production and distribution system is custom built for it's Wonder and other brands and ill suited for other products, it is essential that the divestment include Continental bakeries only. This will require the divestment of the Davenport, Denver, Indianapolis, Kansas City, Ogden, Pomona, Richmond, St. Louis, Salt Lake City, Spokane, Tulsa, and Waterloo bakeries.

3. The new competitor(s) will need an in house laboratory and experimental bakery to allow confidential quality control and new product development. This will require the divestment of the St. Louis General Office facility in which these operations are located.

4. To allow the new competitor(s) to bring new products from the experimental bakery to full scale production will require the divestment of the Kansas City bakery which contains the Continental's Market Development Unit.

5. The new competitor(s) will require a central office with an experienced staff and ready access to the experimental bakery and lab. This will require the divestment of The St. Louis General Office facility.

6. To keep the new competitor(s) up to date in bakery engineering and design will require the divestment of the East Brunswick bakery with it's Engineering, Research, and Development unit.

7. The new competitor(s) will need bakeries located as close as possible to their markets to control transportation costs which can easily devour the low profit margins common in the wholesale White Pan Bread industry. This will require the divestment of the Denver, Indianapolis, Kansas City, Ogden, Pomona, Richmond, St. Louis, Salt Lake City, and Tulsa bakeries.

8. As divestment of only the Wonder brand of bread products would provide the new competitor(s) with only 20 to 30 percent of their current sales volume with virtually no reduction in overhead costs it is essential to the viability of these competitor(s) that they be given the full line of Continental products including the Hostess line. Continental bakeries tend to be highly specialized dedicated facilities optimized to produce a small number of products, importing the rest from other Continental bakeries which they in turn supply with their specialties. In fact, there is probably no Continental bakery which is capable of producing even the full line of Wonder label products. To provide the new competitor(s) with the full range of Continental products they will need to be viable in the marketplace will require the divestment of every Continental bakery and related assets except possibly the Anchorage bakery.

III. Conclusion

The merger of Interstate and Continental has resulted in a reduction in competition in many areas of this country which violates our antitrust laws and grossly offends the public interest. Unfortunately no surgically precise divestment of assets in these geographical areas is possible—so interdependent are Continental bakeries that they developed one of our county's largest private fleets of transport trucks largely to exchange products between them. While Hodgkins and Pomona specialize in high speed production of white bread by the truckload, Waterloo and San Pedro slowly produce smaller batches of variety breads, and Indianapolis is Continental's sole source of Mini Muffins and Brownie Bites. On Continentals loading docks, in its transports, and within its depots and thrift stores these products of myriad bakeries are brought together to produce a profitable mix. Given the thin profit margins of the wholesale baking industry, attempting to divide Continental with even surgical precision would be fatal. The Antitrust Division and the court have no alternative but to insist on a total divestment of Continental Baking Company.

Respectively Submitted,

Diana Slyter.

October 23, 1995.

Ms. Diana Slyter,
728 East 16th Street, Minneapolis, MN 55404.

Re: *U.S.* v. *Interstate Bakeries Corp. and Continental Baking Co.; Civil Action No.: 95C 4194 (N.D. Illinois July 20, 1995.*

Dear Ms. Slyter: This letter responds to your letter dated September 29, 1995 commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquisition of the assets of Continental Baking Company (''Continental'') by Interstate Bakeries Corporation (''Interstate''). The Complaint alleges that the acquisition, as originally structured, violated Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the sale of white pan bread in five markets (Chicago, Milwaukee, central

Illinois (Springfield, Peoria, Champaign/Urbana), San Diego, and Los Angeles). Under the proposed Final Judgment, the defendants are required to divest such brand names and possibly other assets as are necessary to create a new competitor in the sale of white pan bread in each of the five markets.

In your letter, you expressed concern that the proposed Final Judgment does not address competitive concerns in a number of additional geographic areas (Oxnard and Mohave, California; southern Idaho; western Colorado; Casper and Rock Springs, Wyoming; San Luis Obispo, California; Carondale, Illinois; central Missouri; eastern Virginia; Raleigh, North Carolina; Kansas City; Bakersfield, California; Cincinnati; southeast Kansas; southwest Missouri; and western Montana).

The analytical process used by the Antitrust Division in determining in which markets to challenge this acquisition required us to assess a number of factors such as market concentration, potential adverse competitive effects, entry, and efficiency gains. These factors must be evaluated in an economically meaningful product and geographic market. This analysis is aimed at allowing the Division to answer the ultimate inquiry: whether the acquisition is likely to create or enhance market power or facilitate the exercise of market power in each such market. After a thorough investigation which included the geographic areas mentioned in your letter, the Antitrust Division concluded that the product and geographic markets in which Interstate's acquisition of Continental might most significantly create or enhance market power or facilitate the exercise of market power are the sale of white pan bread in the Chicago, Milwaukee, central Illinois, Los Angeles and San Diego markets.

Your letter also outlines a number of assets that you believe should be divested as part of the proposed Final Judgment in order to create a viable competitor in the sale of white pan bread. You conclude, essentially, that all of Continental's assets should be divested (i.e., that the acquisition should be prevented in its entirety).

Paragraph IV.A. of the proposed Final Judgment states that the defendants must divest themselves of the certain brand names as well as any Bread Assets (as defined by the proposed Final Judgment) as are reasonably necessary in order for the acquirer of each divested brand ''to remain a viable competitor in the White Pan Bread Market in each of the Relevant Territories.'' Furthermore, paragraph IV.D. of the proposed Final Judgment provides that any divestiture must be accomplished in such a way to satisfy the United States that the brands ''can and will be used by the purchaser or purchasers as part of viable, ongoing businesses engaged in the selling of White Pan Bread at wholesale to retail grocery stores and other customers.'' Thus, the defendants would be obligated to divest as many or as few of the defined Bread Assets as were necessary to any potential purchaser to insure the buyer would be a viable competitor in the sale of white pan bread.

The United States, in evaluating any potential divestiture packages, would take into consideration many of the issues raised in your letter to insure the viability of any purchaser. This determination will be made on a case-by-case basis, depending on many factors including the existing assets and financial condition of any potential purchaser and the stated asset needs of that purchaser. Moreover, we have to assume that any potential purchaser will consider these facts, and others, before purchasing any assets.

We appreciate you bringing your concerns to our attention and hope that this information will help to alleviate them. While we understand your position, we believe that the proposed Final Judgment would adequately alleviate the competitive concerns created by Interstate's acquisition of Continental. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the Federal Register and filed with the Court.

Thank you for your interest in the enforcement of the antitrust laws.

Sincerely yours,

Anthony V. Nanni,

Chief, Litigation I Section.

[FR Doc. 95–27481 Filed 11–6–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than November 17, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1995.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of October, 1995.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 10/16/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,530	Anitec Image Corp (ICWU)	Binghamton, NY	10/06/95	Photographic & Graphic Arts Film & Paper.
31,531	Allegheny Ludlum Corp (USWA)	Brackenridge, PA	10/04/95	Silcon Steel.
31,532	UniMark Foods, Inc. (Wkrs)	Hidalgo, TX	09/18/95	Guacamole.
31,533	EIS Brake Parts (UAW)	Berlin, CT	09/18/95	Automobile Brake Master Cylinders.
31,534	Amphenol Corp. (Wkrs)	Roselle, IL	10/04/95	Electric Connectors (Sales Only).
31,535	Ohio Power Co. (UWUA)	Brilliant, OH	09/29/95	Electricity.
31,536	General Electric (Wkrs)	Erie, PA	10/01/95	Locomotive Parts.
31,537	Sero Co., Inc. (The) (Co)	Cordele, GA	10/06/95	Men's Dress Shirts.
31,538	McInnes Steel Co. (Wkrs)	Corry, PA	10/02/95	Steel Forgings.
31,539	B & C Well Service (Wkrs)	Borger, TX	10/02/95	Oil Well Services.

APPENDIX—Continued

[Petitions Instituted on 10/16/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,540	American Banknote Co (Wkrs)	Bedford Park, IL	10/04/95	Printed Documents.
31,541	Mud Systems, Inc. (Co)	Wichita, KS	10/04/95	Technical Support for Petroleum Industry.
31,542	OshKosh B'Gosh, Inc. (Co)	McEwen, TN	10/03/95	Children's Overalls.
31,543	OshKosh B'Gosh (Co)	Hermitage Sprgs. TN	10/11/95	Children's Overalls.

[FR Doc. 95–27455 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,219]

Atlas Ballistic Products, Odessa, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Atlas Ballistic Products, Odessa, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–30,219; Atla Ballistic Products, Odessa, Texas (October 26, 1995)

Signed at Washington, DC, this 26th day of October, 1995.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27465 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1995.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 23rd day of October, 1995.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 10/23/95]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,544	Chadco, Inc. (Wkrs)	Corinth, MS	09/29/95	Men's, Boys', Children's Knit Shirts.
31,545	Circle Jewelry Products (Wkrs)	New York, NY	10/05/95	Costume Jewelry.
31,546	Bethlehem Steel Corp. (BBF)	Port Arthur, TX	10/11/95	Repair Offshore Drilling Rigs/Ships.
31,547	Columbian Cutlery Co. (USWA)	Reading, PA	10/05/95	Lawn & Garden Tools.
31,548	General Electric (UE)	Erie, PA	10/05/95	Locomotives & Related Equipment.
31,549	Johnston America Corp. (USWA)	Johnstown, PA	10/06/95	Railroad Cars, Kits & Car Parts.
31,550	Lawler Hosiery (Wkrs)	Carrollton, GA	10/05/95	Men's, Women's, Children's Socks.
31,551	Gleasons Sales & Service (Wkrs)	Lansing, MI	10/05/95	Radiator Repair.
31,552	Paxar Corp., Woven Label (Co.)	Paterson, NJ	10/04/95	Woven Labels for Apparel.
31,553	Stratus Computer (Wkrs)	Marlboro, MA	10/04/95	Mfg Mainframe, Fault Tolerent Computer.
31,554	Wondermaid, Inc. (UNITE)	Washington, MO	10/12/95	Ladies' Lingerie.
31,555	Woodville Apparel Co. (Wkrs)	Woodville, MS	10/10/95	Apparel (T-Shirts).
31,556	Milday Brassiere & Corset (ILGWU)	New York, NY	10/12/95	Ladies' Swimsuits.
31,557	Rienzi Manufacturing, Inc (Wkrs)	Rienzi, MS	10/09/95	Men's Athletic Apparel.
31,558	Hill-Phoenix Refrig. (Wkrs)	New Braunfels, TX	10/09/95	Refrigeration Systems—Supermarkets.
31,559	Hettich International (IBT)	Harrionville, MO	10/11/95	Drawer Slides & Hardware for Furniture.
31,560	Unocal Corporation (Co.)	Bakersfield, CA	10/10/95	Crude Oil, Natural Gas.
31,561	Unocal Corporation (Co.)	Ventura, CA	10/10/95	Crude Oil, Natural Gas.

APPENDIX—Continued

[Petitions instituted on 10/23/95]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,562	Unocal Corporation (Co.)	Orcutt, CA	10/10/95	Crude Oil, Natural Gas.
31,563	Unocal Corporation (Co.)	Santa Fe Sprgs, CA	10/10/95	Crude Oil, Natural Gas.
31,564	W.R. Grace & Company (Co.)	West Chicago, IL	10/12/95	Fireproofing Materials.
31,565	Eastland Woolen Mill (Co.)	Corinna, ME	10/09/95	Woolen Yarn and Fabric.
31,566	Striar Textile Mill (Co.)	Orono, ME	10/09/95	Woolen Fiber.
31,567	Bass Shoe Outlet #302 (Wkrs)	Lebanon, MO	10/11/95	Shoes & Leather Goods.
31,568	Fruit of The Loom (Co.)	Greensburg, KY	10/09/95	T-Shirts.
31,569	Mapa Pioneer (URW)	Willard, OH	10/10/95	Rubber Gloves.
31,570	Mapa Pioneer (URW)	Attica, OH	10/10/95	Rubber Gloves.
31,571	Carl E. Smith, Inc. (Co.)	Sandyville, WV	10/07/95	Install Gas Pipelines.
31,572	Reidbord Brothers Co. (Wkrs)	Elkins, WV	09/28/95	Men's Casual Pants.
31,573	Reidbord Brothers Co. (Wkrs)	Philippi, WV	09/28/95	Men's Casual Pants.
31,574	Reidbord Brothers Co. (Wkrs)	Buckhannon, WV	09/28/95	Men's Casual Pants.

[FR Doc. 95–27463 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,351; TA–W–31,351A]

Consolidated Natural Gas Transmission, Clarksburg, WV and Hope Gas, Inc., Clarksburg, WV; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 26, 1995, applicable to all workers at Consolidated Natural Gas Transmission located in Clarksburg, West Virginia. The notice was published in the Federal Register on October 5, 1995 (60 FR 52213).

At the request of the company and State Agency, the Department reviewed the certification for workers of the subject firm. The findings show that Hope Gas, Inc., also located in Clarksburg, West Virginia, is a subsidiary of Consolidated Natural Gas Company. The company reports worker separations have occurred at Hope Gas, Inc. The Department is amending the certification to include these workers.

The intent of the Department's certification is to include all workers of Consolidated Natural Gas Transmission adversely affected by increased imports of natural gas.

The amended notice applicable to TA–W–31,351 is hereby issued as follows:

All workers of Consolidated Natural Gas Transmission (TA–W–31,351) and Hope Gas, Inc. (TA–W–31,351A), Clarksburg, West Virginia, who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 24th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27457 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,246]

Fina Oil and Chemical Company Exploration and Production Group West Texas Division Operating at Various Locations in Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 25, 1995, applicable to all workers of the West Texas Division of Fina Oil and Chemical Company operating at locations in Texas and Louisiana. The notice was published in the Federal Register September 19, 1995 (60 FR 48526).

At the request of the company, the Department is amending the certification to include workers of American Petrofina Pipeline, which is a wholly-owned subsidiary of the subject firm. The workers, located at various sites in Texas, are engaged in employment related to the production of crude oil and natural gas.

The intent of the Department's certification is to include all workers of Fina who were adversely affected by imports. The Department's review of the certification shows that when the certification was issued, Louisiana should have been identified as a separate location. Therefore, the certification is also amended to separately identify the Fina Oil operations in Louisiana as TA–W–31,246A.

All workers of Fina Oil and Chemical Company with locations in Texas (TA–W–31,246) and Louisiana (TA–W–31,246A), and American Petrofina Pipeline operating at various locations in Texas (TA–W–31,246B) who became totally or partially separated from employment on or after October 8, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 20th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Service, Office of Trade Adjustment Assistance.

[FR Doc. 95–27452 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,880 and 880A]

G.E. Power Systems Including Corporate Research and Development and G.E. Computer Services, Schenectady, NY, and G.E. Power Systems, Fitchburg, MA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 18, 1995, applicable to all workers of G.E. Power Systems, Schenectady, New York. The certification was amended June 9, 1995, and September 21, 1995 to include other divisions of the firm. The amended notices were published in the Federal Register on June 21, 1995 (60 FR 32347), and October 2, 1995 (60 FR 51,500), respectively.

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at G.E. Power Systems in Fitchburg, Massachusetts. The workers are engaged in employment related to the production of steam turbines and generators.

The intent of the Department's certification is to include all workers of G.E. Power Systems adversely affected by imports.

The amended notice applicable to TA–W–30,880 is hereby issued as follows:

''All workers of G.E. Power Systems, including Corporate Research and Development, and workers of G.E. Capital Computer Services providing support services related to the production of steam turbines and generators at G.E. Power Systems, Schenectady, New York (TA–W–30,880); and G.E. Power Systems, Fitchburg, Massachusetts (TA–W–30,880A) who became totally or partially separated from employment on or after November 19, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 20th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27454 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,676; TA–W–30,676M]

Hasbro, Inc., Pawtucket, Rhode Island; Playskool Baby, Orangeburg, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 31, 1995, applicable to all workers at Hasbro, Inc., located in Pawtucket, Rhode Island. The notice was published in the Federal Register on February 14, 1995 (60 FR 8415).

At the request of the company, the Department is amending the certification to include workers of the subject firm operating as Playskool Baby, located in Orangeburg, New York.

The intent of the Department's certification is to include all workers of Harsbro adversely affected by imports.

The amended notice applicable to TA–W–30,676 is hereby issued as follows:

''All workers of Hasbro, Inc., Pawtucket, Rhode Island (TA–W–30,676) and Playskool Baby, Orangeburg, New York (TA–W–30,676M) engaged in employment related to the production of toys and games who became totally or partially separated from employment on or after October 24, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 20th day of October 1995.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27461 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,197; TA–W–31,197A]

H.H. Cutler Co. Reidsville, Georgia; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 25, 1995, applicable to all workers at H.H. Cutler Co. located in Statesboro, Georgia. The notice was published in the Federal Register on September 19, 1995 (60 FR 48526).

At the request of petitioners, the Department reviewed the subject certification. New findings show worker separations occurred at the Reidsville, Georgia plant of H.H. Cutler. The workers produced children's apparel.

The intent of the Department's certification is to include all workers of H.H. Cutler adversely affected by imports.

The amended notice applicable to TA–W–31,197 is hereby issued as follows:

''All workers of H.H. Cutler Company, Statesboro, Georgia (TA–W–31,197) and Reidsville, Georgia (TA–W–31,197A) who became totally or partially separated from employment on or after June 1, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 24th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27467 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,356]

Jeld-Wen of Bend/Bend Millwork Including Pozzi Window and Bend Door Co., Bend, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 21, 1995, applicable to all workers at Jeld-Wen of Bend/Bend Millwork, located in Bend, Oregon. The notice was published in the Federal Register on October 5, 1995 (60 FR 52213).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The findings show that workers of Pozzi Window and Bend Door Co. were inadvertently omitted from the certification. All manufacturing operations of Pozzi Window and Bend Door Co. are performed at the Jeld-Wen production facility in Bend, Oregon.

The intent of the Department's certification is to include all workers of Jeld-Wen adversely affected by imports.

The amended notice applicable to TA–W–31,356 is hereby issued as follows:

''All workers of Jeld-Wen of Bend/Bend Millwork, Pozzi Window and Bend Door Company, Bend Oregon who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 24th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27458 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,268]

Maxus Energy Corp. A/K/A Maxus Corporate, Dallas, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 8, 1995, applicable to workers of Maxus Energy Corporation located in Dallas, Texas. The notice was published in the Federal

Register on August 24, 1995 (60 FR 44079).

New information received from the company shows that some of the workers at Maxus Energy Corporation had their unemployment insurance (UI) taxes paid to Maxus Corporate.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Maxus who were affected by increased imports of crude oil and natural gas. The amended notice applicable to TA–W–31,268 is hereby issued as follows:

''All workers of Maxus Energy Corporation, a/k/a Maxus Corporate, Dallas, Texas who become totally or partially separated from employment on or after June 30, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 24th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27460 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,120]

Mobil Exploration and Producing U.S., Incorporated (MEPUS) A/K/A Mobil Administrative Service Company Inc. (MASCI) Headquartered in Dallas, Texas, etc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 30, 1994, applicable to all workers of Mobil Exploration and Producing U.S., Incorporated (MEPUS), headquartered in Dallas, Texas and operating at various locations in the United States. The notice was published in the Federal Register on October 21, 1994 (59 FR 53211).

At the request of the company, the Department reviewed the subject certification. New information received from the company shows that a worker unit within MEPUS was inadvertently excluded from the certification. Accordingly, the Department is amending the certification to include workers of Mobil Administrative Service Company Inc.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,120 is hereby issued as follows:

''All workers of Mobile Exploration and Producing U.S., Incorporated (MEPUS), a/k/a Mobile Administrative Service Company, Inc. (MASCI) headquartered in Dallas, Texas (TA–W–30,120) and operating out of various locations as listed below engaged in activities related to exploration and production of crude oil and natural gas who became totally or partially separated from employment on or after April 30, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–30,120A—Mepus, Dallas, Affiliate, A/K/A Mobile Administrative Service Company Inc. (MASCI), headquartered in Dallas, Texas and operating at other sites in the following states:
TA–W–30,120B Alabama
TA–W–30,120C California
TA–W–30,120D Colorado
TA–W–30,120E Kansas
TA–W–30,120F Louisiana
TA–W–30,120G Oklahoma
TA–W–30,120H Texas

TA–W–30,120I—Mepus, Bakersfield Division, A/K/A Mobile Administrative Service Company Inc. (MASCI), headquartered in Bakersville, California and operating at other sites in the following states:
TA–W–30,120J California
TA–W–30,120K Colorado
TA–W–30,120L Texas
TA–W–30,120M Wyoming

TA–W–30,120N—Mepus, Houston Division, A/K/A Mobile Administrative Service Company Inc. (MASCI), headquartered in Houston, Texas and operating at other sites in the following states:
TA–W–30,120O California
TA–W–30,120P Louisiana
TA–W–30,120Q New Mexico
TA–W–30,120R Oklahoma
TA–W–30,120S Texas

TA–W–30,120T—Mepus, Liberal Division, A/K/A Mobile Administrative Service Company Inc. (MASCI), headquartered in Liberal, Kansas and operating at other sites in the following states:
TA–W–30,120U Colorado
TA–W–30,120V Kansas
TA–W–30,120W Oklahoma

TA–W–30,120X—Mepus, Midland Division, A/K/A Mobile Administrative Service Company Inc. (MASCI), headquartered in Midland, Texas and operating at other sites in the following states:
TA–W–30,120Y Colorado
TA–W–30,120Z New Mexico
TA–W–30,120AA Texas
TA–W–30,120BB Utah

TA–W–30,120CC—Mepus, New Orleans Division, A/K/A Mobile Administrative Service Company Inc. (MASCI), headquartered in New Orleans, Louisiana and operating at other sites in the following states:
TA–W–30,120DD Alabama
TA–W–30,120EE Arkansas
TA–W–30,120FF Florida
TA–W–31,120GG Georgia
TA–W–30,120HH Louisiana
TA–W–30,120II Mississippi
TA–W–30,120JJ New Mexico
TA–W–30,120KK Oklahoma
TA–W–30,120LL Texas

Signed at Washington, D.C. this 20th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27462 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,239]

Nu Quaker Dyeing, Incorporated, Easton, Pennsylvania; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Nu Quaker Dyeing, Incorporated, Easton, Pennsylvania. The review indicated that the application contained no new substantial information which could bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–31,239; NU Quaker Dyeing, Incorporated, Easton, Pennsylvania (October 26, 1995)

Signed at Washington, D.C. this 26th day of October, 1995.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27464 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,552]

Paxar Corp., Woven Label Group Paterson, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 23, 1995, in response to a worker petition which was filed on October 23, 1995, on behalf of

workers at Paxar Corporation, Woven Label Group, Paterson, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 29th day of October, 1995

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27541 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,359]

Pendleton Woolen Mills, Inc. Milwaukie, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 13, 1995, applicable to all workers of Pendleton Woolen Mills, Inc., Milwaukie, Oregon. The notice was published in the Federal Register on September 26, 1995 (60 FR 49635).

At the request of the union, the Department reviewed the certification for workers at the subject firm. New information provided by the company reveals that worker separations at the subject facility are not limited to those workers producing ladies' blouses. New findings show employment declines have occurred for workers producing men's shirts at the Milwaukie, Oregon plant.

The intent of the Department's certification is to include all workers of Pendleton Woolen Mills adversely affected by increased imports of apparel. Accordingly, the Department is amending the certification to expand coverage to all workers of the subject firm in Milwaukie, Oregon.

The amend notice applicable to TA–W–31,359 is hereby issued as follows:

''All workers of Pendleton Woolen Mills, Inc., Milwaukie, Oregon who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 25th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27456 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,061 & 061A]

Strand Lighting, Incorporated Rancho Dominguez, California and Strand Lighting, Incorporated Field Offices in the State of New Jersey; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 19, 1995, applicable to all workers at Strand Lighting Incorporated located in Rancho Dominguez, California. The notice was published in the Federal Register on August 9, 1995 (60 FR 40613).

At the request of the State Agency the Department reviewed the certification. New information received from the subject firm shows that worker separations have occurred in the State of New Jersey. The workers in New Jersey are engaged in employment related to field service repair for Strand Lighting.

The intent of the Department's certification is to include all workers of Strand Lighting adversely affected by imports.

The amended notice applicable to TA–W–31,061 is hereby issued as follows:

''All workers of Strand Lighting, Incorporated, Rancho Dominguez, California (TA–W–31,061); and in the State of New Jersey (TA–W–31,061A) who became totally or partially separated from employment on or after May 12, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 20th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27453 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,119; TA–W–31,119C]

Wirekraft Industries, Incorporated, Burcliff Industries Division, Cardington, Ohio; Wirekraft Industries, Incorporated, Burcliff Industries Division, Corning, Iowa; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 9, 1995, applicable to all workers of Wirekraft Industries, Incorporated, Burcliff Industries Division, located in Cardington, Ohio. The notice was published in the Federal Register on August 24, 1995 (60 FR 44079).

The certification was subsequently amended to cover other subject firm locations.

New information received from the company shows that worker separations will occur at Wirekraft Industries, Incorporated, Burcliff Industries Division in Corning, Iowa. The workers produce electrical wire harness for appliances.

The intent of the Department's certification is to include all workers of Wirekraft Industries adversely affected by imports.

The amended notice applicable to TA–W–31,119 is hereby issued as follows:

''All workers of the Burcliff Industries Division of Wirekraft Industries, Incorporated, Cardington, Ohio (TA–W–31,119), and Corning, Iowa (TA–W–31,119C) who became totally or partially separated from employment on or after May 26, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 25th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27459 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act of 1995

On October 31, 1995, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 1, 1995.

Timothy M. Barnicle,

Assistant Secretary of Labor.

October 31, 1995.

The Honorable Robert Rubin,

Secretary of the Treasury, Washington, D.C. 20220

Dear Secretary Rubin: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the

12-month period ending on October 31, 1995. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by Section 3303 of the Code. Both certifications list all 53 jurisdictions.

Sincerely,

Robert B. Reich.

Enclosures

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1995, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, D.C., on October 31, 1995.

Robert B. Reich,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1995:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, D.C., on October 31, 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–27548 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00490; NAFTA–00490A]

H.H. Cutler Co., Statesboro, Georgia and H.H. Cutler Co., Reidsville, Georgia; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on July 21, 1995, applicable to all workers at the subject firm.

The Department reviewed the certification for workers of the subject firm. New findings show worker separations occurred at the Reidsville, Georgia plant of H.H. Cutler. The workers produced children's apparel.

The intent of the Department's certification is to include all workers of H.H. Cutler adversely affected by imports.

The amended notice applicable to NAFTA–00490 is hereby issued as follows:

''All workers of H.H. Cutler Company, Statesboro, Georgia (NAFTA–00490) and Reidsville, Georgia (NAFTA–00490A) who became totally or partially separated from employment on or after June 16, 1994 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC, this 24th day of October 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–27466 Filed 11–6–95; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the national Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Special and Regional Archives.

DATES: December 4, 1995, from 9:00 a.m. to 10:30 a.m.

ADDRESSES: United States Capitol Building, LBJ Room (S–211).

FOR FURTHER INFORMATION CONTACT: Michael L. Gillette, Director, Center for Legislative Archives, (202) 501–5350.

SUPPLEMENTARY INFORMATION:

AGENDA

Updated Report on Five-Year Plan
Task Force on Videotaped Floor Proceedings
Task Force on Legislative Support Agencies
(a) OTA Records
(b) C.R.S. Records
(c) GAO Pilot Appraisal Project

The meeting is open to the public.

Dated: October 31, 1995.

John W. Carlin,

Archivist of the United States.

[FR Doc. 95–27539 Filed 11–6–95; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 79th meeting on November 15 and 16, 1995, in Room T–2B3 at 11545 Rockville Pike, Rockville, Maryland. The entire meeting will be open to public attendance. The agenda for this meeting shall be as follows:

Wednesday, November 15, 1995—8:30 A.M. until 6:00 P.M.

Thursday, November 16, 1995—8:30 A.M. until 6:00 P.M.

During this meeting the Committee plans to consider the following:

A. *Key Technical Issues*—The Committee will discuss the development of Key Technical Issues (KTIs) with the NRC staff and how these issues will be used to solve licensing questions.

B. *Meeting with the Commission*—The Committee will meet with the Commissioners to discuss items of mutual interest.

C. *Reviewing NRC's Programmatic Approach to Low-Level Waste Management*—The Committee will continue to review alternatives to the future course of NRC's Low-Level Radioactive Waste Disposal Program. Members of the NRC staff will participate, as well as representatives from other organizations.

D. *Preparation of ACNW Reports*—The Committee will discuss proposed reports, including comments on the NRC staff's low-level waste alternatives paper and the NRC staff's vertical slice approach and KTIs program.

E. *Meeting with the Director, NRC's Division of Waste Management, Office of Nuclear Materials Safety and Safeguards*—The Director will discuss items of current interest related to the Division of Waste Management programs.

F. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will also discuss ACNW-related activities of individual members.

G. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. Major if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EST.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

The ACNW meeting dates for Calendar Year 1996 are provided below:

ACNW meeting No.	1996 ACNW meeting dates
81	January 24–26, 1996.
82	March 27–29, 1996.
83	May 2–4 or May 15–17, 1996.
84	June 26–28, 1996.
85	August 21–23, 1996.
86	September 25–27, 1996.
87	October 22–23, 1996.
88	December 10–12, 1996.

Dated: November 1, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–27510 Filed 11–6–95; 8:45 am]

BILLING CODE 7590–01–P

[IA 95–055]

James L. Shelton; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

James L. Shelton is President and Radiation Safety Officer (RSO) of TESTCO, Inc. (TESTCO or Licensee) located in Greensboro, North Carolina. TESTCO holds byproduct materials License No. 041–0894–1 issued by the State of North Carolina under an agreement with the Nuclear Regulatory Commission (NRC or Commission) or the Atomic Energy Commission pursuant to subsection 274b of the Atomic Energy Act, as amended. The license authorizes the possession and use of byproduct material for industrial radiography activities in accordance with the conditions specified therein. Mr. Shelton, in addition to being President and RSO, has served as a radiographer from June 1990 to the present.

II

On September 9, 1992, while conducting an inspection of another NRC licensee, an NRC inspector obtained information which indicated that TESTCO had performed radiographic activities in areas under NRC jurisdiction. A review of NRC records revealed that TESTCO did not possess an NRC specific license

pursuant to 10 CFR 30.3, nor had TESTCO notified the NRC of this activity by filing a NRC Form-241 as required by 10 CFR 150.20(b)(1).

The requirement that an Agreement State licensee must file Form-241 before conducting a licensed activity in a non-Agreement State allows NRC to be informed of the location and duration of the activity and permits NRC to inspect it as appropriate. Since August 9, 1991, NRC has required a fee for the initial filing of Form-241, as well as for subsequent revisions to the Form-241.

Between November 16, 1992 and April 25, 1995, an investigation was conducted by the NRC Office of Investigations (OI) to determine if the failure to make the required notification to the NRC was the result of deliberate misconduct. Based on the investigative findings, the NRC staff concludes that on numerous occasions between August 9, 1991, and August 31, 1994, TESTCO conducted radiography using iridium-192, a licensed material, in Virginia, a non-Agreement state (*i.e.*, a State under NRC jurisdiction), without a specific NRC license; and Mr. Shelton deliberately failed to assure that Form-241 was filed with the NRC as required by the general license granted to TESTCO pursuant to 10 CFR 150.20.

A transcribed predecisional enforcement conference between the NRC and Mr. Shelton, representing himself and TESTCO, was held on July 27, 1995. Mr. Shelton indicated during this conference that he had delegated the submission of the NRC Form-241's to his former wife, who was TESTCO's office manager.

The conclusion that Mr. Shelton deliberately failed to assure that the Form-241's were filed is based on the following facts when taken together: (1) Mr. Shelton acknowledged that he was aware of the requirement to file Form-241's; (2) a Form-241 was filed on February 11, 1991, for work conducted in the State of Virginia on February 13, and that form bears Mr. Shelton's signature rather than that of the office manager; (3) Mr. Shelton provided OI with copies of two other Form-241's that he claims to have filed in July 1990 and August 1991, which also bear his signature rather than that of the office manager; (4) no Form-241's were filed between August 9, 1991, the effective date of the rule change requiring a fee for the filing of Form-241, and August 31, 1994, when an NRC inspection of TESTCO focused on the Form-241 issue, and OI determined that TESTCO performed work in Virginia on numerous occasions during that time period; [1] (5) according to sworn testimony from an individual interviewed by OI who was knowledgeable concerning TESTCO's licensed activities, Mr. Shelton stated that he would not make the notifications to the NRC if he had to pay a fee; and (6) Mr. Shelton admitted during the predecisional enforcement conference that, on a number of occasions, he became aware after the fact that his wife had failed to file Form-241, but he took no action as the TESTCO President and RSO to prevent recurrence.

As President and RSO, Mr. Shelton assigned and conducted the radiographic operations and he was responsible for complying with NRC requirements. When he determined that the Form-241's were not being filed with the NRC, he should have resumed the practice of filing the forms himself, discontinued operations in NRC jurisdiction, notified the NRC, or taken other action to assure compliance.

III

Based on the above, the staff concludes that Mr. Shelton engaged in deliberate misconduct, a violation of 10 CFR 30.10, which caused the Licensee to be in violation of 10 CFR 30.3 and 10 CFR 150.20 for the failure to have a specific NRC license or else file Form-241 with the NRC as required by the general license granted pursuant to 10 CFR 150.20. As RSO and President of TESTCO, Mr. Shelton was responsible for radiation safety and compliance with NRC requirements, specifically in this case, the notification of the NRC through the submittal of the NRC Form-241. Failure of the licensee to notify the NRC denied the NRC the opportunity to inspect the activities and ensure that the health and safety of the public was being protected.

The NRC must be able to rely on the licensee and its employees to comply with NRC requirements. The deliberate violation of 10 CFR 30.3 and 10 CFR 150.20 by Mr. Shelton, as discussed above, raises serious doubts as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Shelton were permitted at this time to exercise control over, or engage in, NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Shelton be prohibited from controlling or engaging in NRC-licensed activities for a period of three years from the date of this Order.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered, effective immediately, That:

A. For a period of three years from the date of this Order, Mr. James L. Shelton is prohibited from engaging in, or exercising any control over, NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. This prohibition includes, but is not limited to: (1) Using licensed materials or conducting licensed activities in any capacity within the jurisdiction of the NRC; and (2) assigning, supervising, directing, assisting, or serving as radiation safety officer for, licensed activities conducted within the jurisdiction of the NRC.

B. Following the three year prohibition in Section IV.A. above, at least five days prior to the first time that Mr. Shelton engages in, or exercises control over, NRC-licensed activities, he shall notify the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The notice shall include the name, address, and telephone number of the NRC or Agreement State licensee and the location where the licensed activities will be performed. The notice shall be accompanied by a statement that Mr. Shelton is committed to compliance with NRC requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Shelton of good cause.

V

In accordance with 10 CFR 2.202, James L. Shelton must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this

[1] Mr. Shelton provided OI with a copy of two Form-241's that he claims to have filed on August 23, 1991, and July 1, 1992. NRC has no record of receiving these Form-241's, and NRC fee records do not show any receipt of the fees that would have accompanied them.

Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which James L. Shelton or other person adversely affected relies and the reasons why the Order should not have been issued. Any answer or request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region II, Suite 2900, 101 Marietta Street, NW, Atlanta, Georgia 30323, and to James L. Shelton, if the answer or hearing request is by a person other than James L. Shelton. If a person other than James L. Shelton requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by James L. Shelton or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), James L. Shelton, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the same time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Part IV of this Order shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 31st day of October 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 95–27511 Filed 11–6–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company (Surry Power Station Units 1 and 2); Exemption

I

The Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License Nos. DPR–32 and DPR–37, which authorize operation of the Surry Power Station, Units 1 and 2, respectively. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facilities consist of two pressurized water reactors, Surry Power Station, Units 1 and 2, at the licensee's site located in Surry County, Virginia.

II

In its letter dated June 8, 1995, the licensee requested an exemption from the Commission's regulations. Title 10 of the Code of Federal Regulations, Part 50, Section 60 (10 CFR 50.60), ''Acceptance Criteria for Fracture Prevention Measures for Light-water Nuclear Power Reactors for Normal Operation,'' states that all light-water nuclear power reactors must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary as set forth in Appendices G and H to 10 CFR Part 50. Appendix G to 10 CFR Part 50 defines pressure/temperature (P/T) limits during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests to which the pressure boundary may be subjected over its service lifetime. It is specified in 10 CFR 50.60(b) that alternatives to the described requirements in Appendices G and H to 10 CFR Part 50 may be used when an exemption is granted by the Commission under 10 CFR 50.12.

To prevent low temperature overpressure transients that would produce pressure excursions exceeding the Appendix G P/T limits while the reactor is operating at low temperatures, the licensee installed a low temperature overpressure (LTOP) system. The system includes pressure-relieving devices called Power-Operated Relief Valves (PORVs). The PORVs are set at a pressure low enough so that if an LTOP transient occurred, the mitigation system would prevent the pressure in the reactor vessel from exceeding the Appendix G P/T limits. To prevent the PORVs from lifting as a result of normal operating pressure surges (e.g., reactor coolant pump starting, and shifting operating charging pumps) with the reactor coolant system in a water solid condition, the operating pressure must be maintained below the PORV setpoint.

The licensee has requested the use of Code Case N–514, ''Low Temperature Overpressure Protection,'' which allows exceedance of the Appendix G safety limits by 10%. Code Case N–514, the proposed alternate methodology, is consistent with guidelines developed by the American Society of Mechanical Engineers (ASME) Working Group on Operating Plant Criteria to define pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of pressure-relieving devices used for LTOP. Code Case N–514 has been approved by the ASME Code Committee. The content of this code case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI. In order to utilize Code Case N–514 and to permit LTOP events to exceed the Appendix G safety limits, the licensee has requested an exemption to 10 CFR 50.60 in a letter dated June 8, 1995.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *''.

The underlying purpose of 10 CFR 50.60, Appendix G, is to establish

fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences, to which the pressure boundary may be subjected over its service lifetime. Section IV.A.2 of this appendix requires that the reactor vessel be operated with P/T limits at least as conservative as those obtained by following the methods of analysis and the required margins of safety of Appendix G of the ASME Code.

Appendix G of the ASME Code requires that the P/T limits be calculated: (a) Using a safety factor of 2 on the principal membrane (pressure) stresses, (b) assuming a flaw at the surface with a depth of one-quarter (1/4) of the vessel wall thickness and a length of six (6) times its depth, and (c) using a conservative fracture toughness curve that is based on the lower bound of static, dynamic, and crack arrest fracture toughness tests on material similar to the Surry reactor vessel material.

In determining the setpoint for LTOP events, the licensee proposed to use safety margins based on an alternate methodology consistent with the proposed ASME Code Case N–514 guidelines. The ASME Code Case N–514 allows determination of the setpoint for LTOP events such that the maximum pressure in the vessel would not exceed 110% of the P/T limits of the existing ASME appendix G. This results in a safety factor of 1.8 on the principal membrane stresses. All other factors, including assumed flaw size and fracture toughness, remain the same. Although this methodology would reduce the safety factor on the principal membrane stresses, the proposed criteria will provide adequate margins of safety to the reactor vessel during LTOP transients and, thus, will satisfy the underlying purpose of 10 CFR 50.60 for fracture toughness requirements. Further, by relieving the operational restrictions, the potential for undesirable lifting of the PORV would be reduced, thereby improving plant safety.

IV

For the foregoing reasons, the NRC staff has concluded that the licensee's proposed use of the alternate methodology in determining the acceptable setpoint for LTOP events will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12(a)(2), in that application of 10 CFR 50.60 is not necessary in order to achieve the underlying purpose of this regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 50.60 such that in determining the setpoint for LTOP events, the Appendix G curves for P/T limits are not exceeded by more than 10 percent in order to be in compliance with these regulations. This exemption is applicable only to LTOP conditions during normal operation.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (60 FR 54710).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 31st day of October 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–27512 Filed 11–6–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of changes to the membership of the OPM SES Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Mark D. Reinhold, Office of Human Resources and EEO, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, (202) 606–1882.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.

James B. King,

Director.

The following changes to the membership of the OPM Performance Review Board are announced:

Additions

Allan Heuerman, Associate Director for Human Resources Systems

Deletions

Patricia W. Lattimore, former Associate Director for Investigations

Barbara Fiss, former Associate Director for Personnel Systems and Oversight

Steven R. Cohen, former Chicago Regional Director.

[FR Doc. 95–27478 Filed 11–6–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–7238; 34–36451; File No. 265–20]

Advisory Committee on the Capital Formation and Regulatory Processes; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes will meet on November 21, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street NW., Washington, DC, beginning at 12:30 p.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265–20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: David A. Sirignano, Committee Staff Director, at 202–942–2870; Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the Committee will meet on November 21, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street NW., Washington, DC, beginning

12:30 p.m. The meeting will be open to the public.

The Committee was formed in February 1995, and its responsibilities include advising the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets.

The purpose of this meeting will be to discuss the progress of the Committee's work, to discuss elements for a company registration system and preparation of the Committee's report, as well as to discuss general organizational matters.

Dated: November 2, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–27537 Filed 11–6–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36448; File No. SR–Amex–95–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc., Relating to Uniform Listing and Trading Guidelines for Narrow-Based Stock Index Warrants

November 1, 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 September 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 self-regulatory organization. On October 31, 1995, the Amex submitted Amendment No. 1 (''Amendment No. 1'') to the proposal to establish a maintenance requirement with respect to the minimum number of securities that must comprise an index underlying a warrant issuance and to clarify issues relating to settlement values for both narrow-based and broad-based index warrants.[1] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rules 462, 1100 and 1107 to establish uniform listing and training guidelines applicable to narrow-based stock index warrants. The text of the proposed rule change and Amendment No. 1 thereto is available at the Office of the Secretary, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

In view of the recent approval of the regulatory framework for stock index warrants on broad-based stock indexes,[2] the Exchange now proposes to establish uniform listing and trading guidelines for warrants based on narrow-based indexes. To accommodate the trading of warrants on narrow-based indexes, the Exchange proposes to modify the recently approved regulatory framework for broad-based index warrants.[3] Thus, the Exchange proposes to conform the rules applicable to warrants on narrow-based indexes to those applicable to options on narrow-based indexes.

The Commission approved the trading of options on narrow-based indexes in 1982 and it approved the trading of stock index warrants in 1988.[4] The Exchange represents that it has had experience with respect to the trading of these derivative products, and it believes that the trading of warrants on narrow-based stock indexes presents no novel regulatory issues and should be permitted on the same basis as warrants overlying broad-based indexes.

To conform the trading of warrants on narrow-based indexes to the rules applicable to options on narrow-based indexes, the Exchange proposes that the same margin requirements applicable to short sales of narrow-based index options apply to warrants overlying the same index. In addition, the Exchange proposes to apply a position limit structure similar to that which is applicable to narrow-based index options. Accordingly, the Exchange proposes to establish position limits for narrow-based index warrants at three separate, fixed-tier amounts (4,875,000, 6,750,000, and 9,000,000), the applicable level being determined by the level of index component concentration. These levels are equivalent to 75% of the position limits applicable to narrow-based index options. Because broad-based index warrant position limit levels were established at approximately 75% of the corresponding levels for broad-based index options, the Exchange believes it is appropriate to establish narrow-based index warrant position limits at the corresponding level applicable to narrow-based index options.[5]

Also consistent with the existing regulatory framework for broad-based warrants, the issuer may elect to use closing prices for the securities underlying the index to determine settlement values at all times other than the day on which the final settlement valued is to be determined (''valuation date''), as well as during the two business days preceding valuation date.[6] Finally, the Exchange represents that it will not list a warrant on an index consisting of fewer then nine stocks unless the SEC separately approves such index for warrant trading. In addition, the Amex will impose a maintenance standard that requires an index to have at least nine stocks at all times, unless separately approved by the SEC.[7]

In all other respects, the Exchange represents that the rules applicable to the trading of broad-based and narrow-based index options are the same. Accordingly, it proposes that all other rules applicable to broad-based index warrants apply equally to warrants on narrow-based indexes. Finally, the Exchange represents that it will surveil trading in narrow-based index warrants in a similar manner to the surveillance

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[1] Letter from William Floyd-Jones, Assistant General Counsel, Amex, to Michael Walinskas, SEC, dated October 31, 1995.

[2] *See* Securities Exchange Act Release No. 36168 (Aug. 29, 1995).

[3] The Exchange notes that a substantially similar regulatory scheme generally applies to broad-based index options and warrants.

[4] *See* Securities Exchange Act Release Nos. 19264 (Nov. 22, 1982) and 26152 (Oct. 3, 1988).

[5] The position limit tiers have been established at 75% of the levels recently approved by the SEC in connection with a Philadelphia Stock Exchange proposal to increase position limits for narrow-based index options. *See* Securities Exchange Act Release No. 36194 (Sept. 6, 1995). Accordingly, the Exchange proposes that position limits for narrow-based index warrants be set at roughly 75% of the 6,000, 9,000 and 12,000 position limit levels.

[6] *See* Amendment No. 1. The Commission notes that although the recently approved regulatory framework for broad-based index warrants establishes uniform settlement provisions for all exchanges, the Amex in this filing proposes to amend Section 106(e) to clarify its rule language.

[7] *See* Amendment No. 1.

of trading in broad-based index warrants.

Upon approval of this filing, the Exchange proposes that additional Commission review of a specific narrow-based warrant issuance will be required only for warrants overlying narrow-based indexes that have not previously been approved by the SEC for option or warrant trading. Thus, upon approval of this filing, the Exchange proposes it be permitted to list a warrant on any narrow-based index that the SEC has already approved for option trading.[8]

2. Statutory Basis

The Exchange believes 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 and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will reduce or eliminate a burden on competition by allowing the listing of warrants on narrow-based indexes in the same manner as options on narrow-based indexes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the 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 NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. 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–95–39 and should be submitted by November 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–27517 Filed 11–6–95; 8:45 am]

BILLING CODE 8010–01–M

[8] In order to expedite SEC review of a particular warrant issuance, the Exchange may file for approval of the index underlying the proposed warrants pursuant to the procedures and criteria set forth in Commentary .02 to Rule 901C. These criteria establish streamlined procedures for listing options on stock industry groups (*i.e.*, narrow-based). Accordingly, the Exchange proposes that the same criteria apply to subsequent proposals to establish narrow-based indexes which underlie proposed warrant issuances.

[9] 17 CFR 200.30–3(a)(12) (1994).

[Investment Company Act Release No. 21463; 811–1657]

Rochester Tax Managed Fund, Inc.; Notice of Application for Deregistration

November 1, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Rochester Tax Managed Fund, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on September 28, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 27, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 350 Linden Oaks, Rochester, New York 14625.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a registered open-end investment company, incorporated in the state of New York on September 7, 1967. On May 31, 1968, applicant filed a Notification of Registration on Form N–8A and a registration statement on Form N–8B–1 pursuant to section 8(b) of the Act. Also on that date, applicant filed a registration statement on Form S–5 pursuant to the Securities Act of 1933. The registration statement was declared effective on December 2, 1968, and applicant commenced its initial public offering on or about that date.

2. On April 12, 1995, applicant's board of directors approved an Agreement and Plan or Reorganization (the ''Agreement'') between the Rochester Fund Series—The Bond Fund For Growth (''The Bond Fund For Growth'') and applicant. Applicant entered into the Agreement with The Bond Fund For Growth on April 26, 1995. Pursuant to the Agreement, The Bond Fund For Growth would acquire all of applicant's assets in exchange for shares of beneficial interest of The Bond Fund for Growth. In determining whether to recommend approval of the Agreement, applicant's board considered a number of factors

including, but not limited to: (a) the relative past growth or decline in assets and performance of each fund; (b) the future prospects for growth and performance of each fund, whether or not they are reorganized; (c) the compatibility of the funds' respective investment objectives, policies, restrictions, and portfolios; (d) the shareholder services of each fund; and (e) the relative expense ratios of each fund and the likely effect of the reorganization on the expense ratio of each fund.

3. On April 28, 1995, applicant filed a Form N–14 with the SEC that contained preliminary copies of proxy materials. On June 1, 1995, applicant distributed proxy materials to its shareholders. On June 2, 1995, definitive proxy materials were filed with the SEC. At a meeting held on June 26, 1995, applicant's shareholders approved the reorganization.

4. As of June 28, 1995 (the ''Closing Date''), applicant has 760,094 shares of beneficial interest outstanding with an aggregate and per share net asset value of $9,039,350 and $11.89, respectively. On the Closing Date, applicant transferred all of its assets and liabilities to The Bond Fund For Growth in exchange for a *pro rata* distribution of shares of beneficial interest of The Bond Fund For Growth.

5. Each of applicant's shareholders received, in exchange for his or her shares in applicant, shares of beneficial interest of The Bond Fund For Growth having a net asset value equal to the aggregate net asset value of his or her shares in applicant as of the Closing Date.

6. Applicant will bear certain expenses of the reorganization such as printing, mailing and proxy solicitation expenses, legal fees, and audit and tax consulting fees in an amount up to $16,150. Any expenses beyond this amount will be borne by Fielding Management Company, Inc., applicant's investment adviser.

7. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

8. Applicant will terminate its existence as a New York corporation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–27484 Filed 11–6–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee to discuss rotorcraft issues, current rulemaking actions, and future activities and plans.

DATES: The meeting will be held on November 14, 1995, 1 p.m.–5 p.m. Arrange for oral presentations by November 9, 1995.

ADDRESSES: The meeting will be held at Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314–2818.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Herber, Office of Rulemaking, Aircraft & Airport Rules Division. ARM–200, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498.

SUPPLEMENTARY INFORMATION: The referenced meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II). The agenda will include.

1. Remarks by the Chair of the Aviation Rulemaking (ARAC) Advisory Committee.

2. Presentation of the status report on the final rules resulting from the ARAC recommendations on ''Occupant Protection'' Notice of Proposed Rulemaking (NPRM) 94–8 (59 FR 17156) and ''Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements'' NPRM 94–36 (59 FR 67068).

3. Presentation of the status report on each of the tasks listed below and presentation of the ''Work Plan'' and the ''Concept Brief'' for the pertinent tasks for approval:

a. Harmonization of Miscellaneous Rotorcraft Regulations.

b. Critical parts.

c. Performance and Handling Qualities Requirements.

1d. Normal Category Gross Weight & Passenger Issues

4. Presentation of the rulemaking recommendation of the Class D External Load Working Group for approval.

Copies of the documents relating to item 3 (pertinent ''Work Plans'' and ''Concept Briefs'') and item 4 above will be available in the conference room at 9 a.m. on the date of the meeting for review.

Attendance is open to the public but will be limited to the space available. The public must make arrangements by November 9, 1995, to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 16 copies to the Assistant Chair or by providing the copies to him at the meeting. In addition, sign and oral interpretation, as well as a listening device, can be made available at the meeting if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 17, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–27572 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lambert-St. Louis International Airport, St. Louis, MO

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lambert-St. Louis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before December 7, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Col. Leonard L. Griggs, Jr., Director of Airports, Lambert-St. Louis International Airport, at the following address: City of St. Louis Airport

Authority, P.O. Box 10212, St. Louis, Missouri 63145.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of St. Louis Airport Authority, Lambert-St. Louis International Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna K. Sandridge, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Lambert-St. Louis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 24, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of St. Louis Airport Authority, St. Louis, Missouri, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 28, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: April, 1996
Proposed charge expiration date: June, 1998
Total estimated PFC revenue: $80,645,538

Brief description of proposed project(s): Airport Noise Land Acquisition/Relocation Program (Phase II); Obstruction Removal—Washington Park Cemetery (Phase II); East Terminal Expansion (Phase II); High Speed Exits off Runway 12L/30R; Differential Global Positioning System for Nonprecision Approaches; Main Terminal Restroom Rehabilitation; Family Assistance Center at Gate 63; Fire Alarm System Upgrade; Asbuilt Drawings for Fire Protection System; Air Handler Unit Phase Protection Installation; Air Traffic Control Tower Airfield Lighting Controls Installation; Terminal Seismic Risk Reduction Study; Installation of Canopies for Exits 6 and 14; Traffic Distribution Modification—Main Terminal; Installation of 800 MHz Radio Communication System (Phases II, III and IV); Construct Taxiway Connector from Runway 12R/30L to Taxiway P; ''C'' Taxiway Connector Construction; Security Card Access System Installation; East Apron II–B and Glycol Recovery System Construction; Construct West Apron at Taxiway D; Concourse B & C Connector Construction; Federal Inspection Services Vertical Transportation Installation; Airport Flight Information Display Signage System Installation in the Gate Area.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lambert-St. Louis International Airport.

Issued in Kansas City, Missouri on October 24, 1995.

George A. Hendon,

Manager, Airports Division Central Region.

[FR Doc. 95–27555 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. MC–89–10]

Inspection, Repair, and Maintenance; Periodic Inspection of Commercial Motor Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to motor carriers on State periodic inspection programs.

SUMMARY: This notice adds the periodic inspection (PI) program of the State of Connecticut to the list of programs which are comparable to, or as effective as, the PI requirements contained in the Federal Motor Carrier Safety Regulations (FMCSRs). The FHWA has published a list of such programs in the Federal Register, and this list has been revised occasionally. Including Connecticut, there are 22 States, the Alabama Liquefied Petroleum Gas Board, the District of Columbia, 10 Canadian Provinces, and one Canadian Territory that have PI programs which the FHWA has determined to be comparable to, or as effective as, the Federal PI requirements.

DATES: This docket will remain open until further notice.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–89–10, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Standards, HCS–10, (202) 366–4009; or Mr. Charles Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31142) (the Act) requires the Secretary of Transportation to prescribe standards for annual or more frequent inspection of commercial motor vehicles (CMVs) unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection. On December 7, 1988, in response to the Act, the FHWA published a final rule amending part 396 of the Federal Motor Carrier Safety Regulations, entitled Inspection, Repair, and Maintenance (53 FR 49402). That final rule requires that CMVs operating in interstate commerce be inspected at least once a year. The inspection is to be based on Federal inspection standards, or a State inspection program determined by the FHWA to be comparable to, or as effective as, the Federal standards. Accordingly, if the FHWA determines that a State's PI program is comparable to, or as effective as, the requirements of part 396, then a motor carrier must ensure that any of its CMVs which are required by that State to be inspected through the State's inspection program are so inspected. If a State does not have such a program, the motor carrier is responsible for ensuring that its CMVs are inspected using one of the alternatives included in the final rule.

On March 16, 1989, the FHWA published a notice in the Federal Register which requested States and other interested parties to identify and provide information on the CMV inspection programs in their States (54 FR 11020). Upon review of the information submitted, the FHWA published a list of State inspection programs which were determined to be comparable to the Federal PI requirements (54 FR 50726, December 8, 1989). This initial list included 15 States and the District of Columbia. The list was revised on September 23, 1991, to include the inspection programs of the Alabama Liquefied Petroleum Gas (LPG) Board, California, Hawaii, Louisiana, Minnesota, all of the

Canadian Provinces, and the Yukon Territory (56 FR 47983). On November 27, 1992, the list was revised to include the Wisconsin bus inspection program (57 FR 56400). The list was most recently revised on April 14, 1994, to include the Texas CMV inspection program (59 FR 17829).

Determination: State of Connecticut Bus Inspection Program

On July 1, 1995, the State of Connecticut (the State) implemented a new inspection program for buses. The State requires buses with a seating capacity of more than 16 passengers (including the driver) or a gross vehicle weight rating (GVWR) of 11,794 kilograms (kg) (26,001 pounds) or more to be inspected every 6 months. State officials conduct the inspections during the months of December and January while inspections by authorized or licensed inspection stations are performed during the months of June and July. The State has adopted Appendix G to Subchapter B of title 49, Code of Federal Regulations, as part of its inspection criteria. Certain vehicle components and systems specific to buses (e.g., interior lights, passenger seat anchors and upholstery, emergency exits, etc.) are also covered under the State's inspection program.

The FHWA has determined that the Connecticut bus inspection program in effect as of July 1, 1995, is comparable to or as effective as the Federal PI requirements. Therefore, motor carriers operating buses which are subject to the State's program and which are subject to the FMCSRs must use the State's program to satisfy the Federal PI requirements. Motor carriers operating buses that fall below the passenger-carrying and/or weight threshold for the Connecticut program, but which meet the FHWA's definition of a CMV may continue to use alternative means to satisfy the Federal PI requirements (e.g., self-inspection, the use of a commercial garage or similar facility, or passage of a roadside inspection that meets the requirements of 49 CFR 396.17).

It should be noted that in accepting the State's PI program, the FHWA also accepts the recordkeeping requirements associated with the inspection program. Both the State officials and the authorized inspection facilities issue decals as well as copies of the inspection report. The State inspection decal is considered by the FHWA as satisfying the Federal requirement for proof of inspection on the CMV.

The FHWA also notes that the inspection decals issued by the State government inspectors differ from the decals issued by the licensed inspection facilities. Both decals, however, provide sufficient information for State officials in other jurisdictions to make inquiries about the validity of the decal and request copies of the inspection reports.

States With Equivalent Periodic Inspection Programs

The following is a complete list of States with inspection programs which the FHWA has determined are comparable to, or as effective as, the Federal PI requirements.

Alabama (LPG Board)
Arkansas
California
Connecticut
District of Columbia
Hawaii
Illinois
Louisiana
Maine
Maryland
Michigan
Minnesota
New Hampshire
New Jersey
New York
Oklahoma
Pennsylvania
Rhode Island
Texas
Utah
Vermont
Virginia
West Virginia
Wisconsin

In addition to the States listed above, the FHWA has determined that the inspection programs of the 10 Canadian Provinces and the Yukon Territory are comparable to, or as effective as, the Federal PI requirements. All other States either have no PI programs for CMVs or their PI programs have not been determined by the FHWA to be comparable to, or as effective as, the Federal PI requirements. Should any of these States wish to establish a program or modify their programs in order to make them comparable to the Federal requirements, the State should contact the appropriate FHWA regional office listed in 49 CFR part 390.

Authority: 49 U.S.C. 31132, 31136, 31142, 31502, and 31504; 49 CFR 1.48.

Issued on: October 27, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–27503 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–22–P

Maritime Administration

[Docket S–926]

American President Lines, Ltd.; Notice of Application

American President Lines, Ltd. (APL), by application of October 23, 1995, requests approval to permit the planned sale by APL to Matson Navigation Company, Inc. (Matson), and the subsequent interim bareboat charter by APL from Matson, of six vessels that are currently included as subsidized vessels in APL's Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB–417 and that are subject to Construction-Differential Subsidy Agreements to which APL is a party or under which APL has assumed obligations. The six vessels are the PRESIDENTS LINCOLN, WASHINGTON, MONROE, HOOVER, GRANT, and TYLER.

The sale and interim bareboat charters are integral parts of a broader agreement between APL and Matson pursuant to which Matson will operate four of the six named vessels on transPacific voyages on which APL will charter slots for the carriage of U.S. foreign commerce cargo. In brief, APL and Matson have entered into an agreement, pursuant to which the six above-named vessels will be sold to Matson on or about January 2, 1996, the vessels will be immediately bareboat chartered back to APL for continued operation under APL's ODSA for interim periods of several months or less and following termination of the interim bareboat charters, Matson will operate four of the six vessels (plus a fifth vessel currently owned by Matson) in a weekly, U.S.-flag transPacific service calling Hawaii, Guam and foreign ports in the Far East. Under the agreement, Matson will operate this weekly service, on which APL will charter slots for the carriage of U.S.-foreign commerce cargo, for a period of ten years.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Comments must be received no later than 5:00 p.m. on November 17, 1995. Publication of this notice should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator/Maritime Subsidy Board will consider any comments submitted

and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

Date: November 2, 1995.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 95–27531 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–81–P

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to exchange views on proposals submitted to the eleventh session of the United Nations' Sub-Committee of Experts on the Transport of Dangerous Goods and to report on the progress of the International Civil Aviation Organization's (ICAO) Dangerous Panel (DGP) fifteenth meeting which was held in Montreal, Canada on October 17–26, 1995.

DATES: November 29, 1995 at 9:30 a.m.

ADDRESSES: Room 9230, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the eleventh session of the Sub-Committee of Experts on the Transport of Dangerous Goods to be held December 4 to 15, 1995 in Geneva, Switzerland. During this public meeting U.S. positions on proposals submitted to the eleventh session of the Sub-Committee will be discussed. Topics to be covered include matters related to restructuring the UN Recommendations on the Transport of Dangerous Goods into a model rule, criteria for environmentally hazardous substances, review of intermodal tank requirements, review of the requirements applicable to small quantities of hazardous materials in transport (limited quantities), classification of individual substances, requirements for bulk and non-bulk packagings used to transport hazardous materials, infectious substances and international harmonization of classification criteria.

A second purpose for the meeting will be to review the results of the fifteenth session (October 17–26, 1995, in Montreal, Canada) of the ICAO Dangerous Goods Panel. Agreed amendments to the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air will be discussed.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the eleventh session of the UN Sub-Committee meeting may be obtained from RSPA. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin board. Documents may be ordered by filling out an on-line request form on the HMIX or by contacting RSPA's Dockets Unit (202–366–5046). For more information on the use of the HMIX system, contact the HMIX information center; 1–800–PLANFOR (752–6367); in Illinois, 1–800–367–9592; Monday through Friday, 8:30 a.m. to 5:00 p.m. Central time. The HMIX may also be accessed via the Internet at hmix.dis.anl.gov.

After the meeting, a summary of the public meeting will also be available from the Hazardous Materials Advisory Council, Suite 301, 1101 Vermont Avenue NW., Washington, DC 20005; telephone number (202) 289–4550.

Issued in Washington, DC, on November 2, 1995.

Robert A. McGuire,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–27556 Filed 11–6–95; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.

DATES: Written comments should be received on or before January 8, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Harry McCabe, Chief, Product Compliance Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8136.

SUPPLEMENTARY INFORMATION:

Title: Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.

OMB Number: 1512–0418.

Form Number: ATF F 5000.12.

Abstract: Application For Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms is necessary so that the Bureau may evaluate the applicants in order to assure only competent, reputable persons are authorized to represent claimants.

Current Actions: There are no new changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 8.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: November 1, 1995.

Daniel R. Black,

Acting Director.

[FR Doc. 95–27507 Filed 11–6–95; 8:45 am]

BILLING CODE 4810–31–P

Customs Service

[T.D. 95–94]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury

ACTION: General notice.

SUMMARY: The following Customs broker license number was erroneously included in a list of revoked Customs brokers licenses in the Customs Bulletin.

Gulshan Kala—10188

License 10188, issued in the Houston-Galveston port, remains a valid license.

Dated: November 1, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–27527 Filed 11–6–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–92]

License Cancellation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker license has been cancelled due to the death of the broker. This license was issued in the Los Angeles district.

John G. Leitch—license No. 10757.

Dated: October 19, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–27525 Filed 11–6–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–95]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license number was erroneously included in a list of revoked Customs brokers licenses in the Customs Bulletin.

Robert Powers—13319

License 13319, issued in the Port of Savannah, remains a valid license.

Dated: November 1, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–27528 Filed 11–6–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–93]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license number was erroneously included in a list of revoked Customs brokers licenses in the Customs Bulletin.

Edward Pluemer—7652

License 7652, issued in the Port of Chicago, remains a valid license.

Dated: November 1, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–27526 Filed 11–6–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–91]

License Cancellation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker license has been cancelled due to the death of the broker. This license was issued in the Norfolk port.

James A. Ryan—license No. 10114

Dated: October 19, 1995

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–27524 Filed 11–6–95; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under Office of Management and Budget (OMB) Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), federal agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency will make such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency (USIA) under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256. USIA is requesting approval for a revision and three-year extension of an information collection entitled ''College and University Affiliation Program'', under OMB control number 3116–0179 which expires December 31, 1995. Estimated burden hours per response is thirty hours. Respondents will be required to respond only one time.

DATE: Comments are due on or before January 8, 1996.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street SW., Washington, DC 20547, telephone (202) 619–4408; and OMB review: Mr. Jefferson Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 1002, NEOB, Washington, DC 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0179) is estimated to average thirty 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. As part of its continuing effort to reduce the paperwork burden, USIA invites the general public and other Federal agencies to comment on the proposed information collection as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of

information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/ADD, 301 Fourth Street SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503.

Title: ''College and University Affiliations Program''.

Form Numbers: None.

Abstract: Under the College and University Affiliations Program, USIA offers grants-in-aid to support the development or enhancement of institutional partnerships between U.S. and foreign colleges and universities. The program promotes mutual understanding, strengthens research and teaching capabilities, and improves the academic curricula.

Proposed Frequency of Responses:
No. of Respondents—130
Recordkeeping Hours—30
Total Annual Burden—3,900

Dated: November 2, 1995.

Cathy Brown,

Alternate Federal Register Liaison.

[FR Doc. 95–27530 Filed 11–6–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development Service, Notice of Meeting

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Public Law 92–463, that the subcommittee for Small Investigator-Initiated Research (S–IIR) will hold a meeting at the Boston VA Medical Center HSR&D Conference Room, 150 S. Huntington Avenue, Boston, MA, on November 16, 1995. The meeting is scheduled to begin at 8:00 a.m. and end at 5:00 p.m. The purpose of the meeting is to review research and development applications (with budgets less than $100,000) concerned with the measurement and evaluation of health care systems and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit. Recommendations regarding their funding are prepared for the Associate Chief Medical Director for Research and Development.

This meeting will be open to the public (to the seating capacity of the room) for approximately one hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by the subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mr. Bill Judy, Review Program Manager (12B3), Health Services Research and Development Service, Department of Veterans Affairs, 810 Vermont Avenue, NW, (Techworld), Washington, DC 20420 (phone: 202.565.7425) at least five days before the meeting.

Dated: October 30, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–27485 Filed 11–6–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 215
Tuesday, November 7, 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).

ASSASSINATION RECORDS REVIEW BOARD

DATE: November 13–14, 1995.

PLACE: ARRB, 600 E STREET, NW, WASHINGTON, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: November 13–14, 9:00 a.m.

1. Review and Accept Minutes of October 23–24 Closed Meeting.
2. Review of Assassination Records.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

Thomas Samoluk,

Associate Director for Communications.

[FR Doc. 95–27593 Filed 11–2–95; 4:18 pm]

BILLING CODE 6118–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 3:15 p.m. on Wednesday, November 1, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a matter relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 2, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–27651 Filed 11–3–95; 2:32 pm]

BILLING CODE 6714–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: November 13, 1995 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–739 (Preliminary) (Clad Steel Plate from Japan)—briefing and vote.
5. Outstanding action jackets:
   1. CO69–95–001: Proposal on delegation of budget authority.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: November 2, 1995.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 95–27684 Filed 11–3–95; 2:33 pm]

BILLING CODE 7020–02–P

LEGAL SERVICES CORPORATION

Special Litigation Committee Meeting

TIME AND DATE: The Special Litigation Committee of the Legal Services Corporation's Board of Directors will meet by telephone on November 13, 1995. The meeting will begin at 10 a.m.

PLACE: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Closed. In accordance with a vote of the majority of the Board of Directors to hold an executive session, the Committee will discuss with counsel, consider and act on issues involved in pending civil litigation to which the Corporation is a party. The closing is authorized by the relevant section of the Government in the Sunshine Act [5 U.S.C. § 552b(c)(10)] and the Legal Services Corporation's regulation on public access to its meetings [45 CFR § 1622.5(h)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, 750 First Street NE, Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Closed Session:

1. Consider and act on issues involved in civil litigation to which the Corporation is a party.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Dated: November 3, 1995.

Victor M. Fortuno,

General Counsel.

[FR Doc. 95–27710 Filed 11–3–95; 2:36 pm]

BILLING CODE 7050–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, November 14, 1995.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6479A—Highway Accident Report: Propane Truck Collision with Bridge Column and Fire, White Plains, New York, July 27, 1994.

6628—Marine Accident Report: Fire On Board the U.S. Small Passenger Vessel ARGO COMMODORE, San Francisco Bay, California, December 3, 1994.

6631—Railroad Accident Briefs: Three Railroad Accident Briefs Produced by Railroad Investigators Based in Los Angeles, Chicago and Washington, D.C.:

- Borah, Idaho, Feburary 15, 1995

- Argonna, Wisconsin, April 6, 1995
- Pittsburgh, Pennsylvania, July 25, 1995

NEWS MEDIA CONTACT: Telephone: (202) 382-0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: November 3, 1995.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 95–27662 Filed 11–3–95; 2:32 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 6, 13, 20, and 27, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of November 6

Monday, November 6

9:30 a.m.
Briefing on Risk Harmonization Recommendations (Public Meeting)
(Contact: Mike Weber, 301–415–7297)

Thursday, November 9

2:00 p.m.
Briefing on Browns Ferry 3 Restart (Public Meeting)
(Contact: William Russell, 301–415–1270)

Week of November 13—Tentative

Wednesday, November 15

10:00 a.m.
Briefing on Accident Sequence Precursor Program (Public Meeting)
(Contact: Patrick O'Reilly, 301–415–7570)
2:00 p.m.
Briefing on Measures to Ensure Integrity of Research Data (Public Meeting)
(Contact: Owen Gormley, 301–415–6793)

Thursday, November 16

10:00 a.m.
Briefing by Commonwealth Edison (Public Meeting)
2:00 p.m.
Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Week of November 20—Tentative

There are no meetings scheduled for the Week of November 20.

Week of November 27—Tentative

There are no meetings scheduled for the Week of November 27.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: November 2, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

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Federal Register

Tuesday
November 7, 1995

Part II

Department of Education

Office of Special Education and Rehabilitative Services; Proposed Priorities; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Proposed Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed priorities.

SUMMARY: The Secretary proposes priorities for eight programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act. The Secretary may use these priorities in Fiscal Year 1996 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve outcomes for children with disabilities. The proposed priorities are intended to ensure wide and effective use of program funds.

DATES: Comments must be received on or before January 8, 1996 for the Research in Education of Individuals with Disabilities Program; February 5, 1996 for the Special Studies Program; and December 7, 1996 for all remaining programs.

ADDRESSES: All comments concerning proposed priorities under the Research in Education of Individuals with Disabilities Program, the Special Studies Program, and Program for Children and Youth with Serious Emotional Disturbance, should be addressed to: Linda Glidewell, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3524, Switzer Building, Washington, D.C. 20202–2641. All comments concerning proposed priorities under the Early Education Program for Children with Disabilities; the Educational Media Research, Production, Distribution, and Training Program; the Postsecondary Education Program for Individuals with Disabilities; the Program for Children with Severe Disabilities; and the Secondary and Transitional Services for Youth with Disabilities Program should be addressed to Joseph Clair, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4622, Switzer Building, Washington D.C. 20202–2644.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of the person at the Department to contact for information on each specific proposed priority is listed under that priority.

SUPPLEMENTARY INFORMATION: This notice contains thirteen proposed priorities under eight programs authorized by the Individuals with Disabilities Education Act, as follows: Research in Education of Individuals with Disabilities Program (one proposed priority); Early Education Program for Children with Disabilities (four proposed priorities); Educational Media Research, Production, Distribution, and Training Program (one proposed priority); Postsecondary Education Program for Individuals with Disabilities (one proposed priority); Program for Children with Severe Disabilities (one proposed priority); Secondary and Transitional Services for Youth with Disabilities Program (two proposed priorities); Special Studies Program (two proposed priorities); and Program for Children and Youth with Serious Emotional Disturbance (one proposed priority). The purpose of each program is stated separately under the title of that program.

These proposed priorities would support the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

The Secretary will announce the final priorities in a notice in the Federal Register. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priorities, and the quality of the applications received. Further, priorities could be affected by enactment of legislation reauthorizing these programs. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. Notices inviting applications under these competitions will be published in the Federal Register concurrent with or following publication of the notices of final priorities.

Research in Education of Individuals With Disabilities Program

Purpose of Program: To advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services—including professionals in regular education environments—to provide children with disabilities effective instruction and enable these children to learn successfully.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under these competitions only applications that meet this absolute priority:

Proposed Absolute Priority—Initial Career Awards

Background: There is need to enable individuals in the initial phases of their careers to initiate and develop promising lines of research that would improve early intervention services for infants and toddlers, and special education for children and youth with disabilities. Support for research activities among individuals in the initial phases of their careers is intended to develop the capacity of the special education research community. This priority would address the additional need to provide support for a broad range of field-initiated research projects—focusing on the special education and related services for children and youth with disabilities and early intervention for infants and toddlers—consistent with the purpose of the program as described in 34 CFR 324.1.

Priority: The Secretary proposes to establish an absolute priority for the purpose of awarding grants to eligible applicants for the support of individuals in the initial phases of their careers to initiate and develop promising lines of research consistent with the purposes of the program. For purposes of this priority, the initial phase of an individuals career is considered to be the first three years after completing a doctoral program and graduating (e.g., for fiscal year 1996 awards, projects may support individuals who completed a doctoral program and graduated no earlier than the 1991–92 academic year).

Projects must—

(a) Pursue a line of inquiry that reflects a programmatic strand of research emanating either from theory or a conceptual framework. The line of research must be evidenced by a series of related questions that establish directions for designing future studies extending beyond the support of this award. The project is not intended to represent all inquiry related to the particular theory or conceptual framework; rather, it is expected to initiate a new line or advance an existing one;

(b) Include, in its design and conduct, sustained involvement with nationally recognized experts having substantive or methodological knowledge and

expertise relevant to the proposed research. Experts do not have to be at the same institution or agency at which the project is located, but the interaction must be sufficient to develop the capacity of the researcher to effectively pursue the research into mid-career activities. At least 50 percent of the researcher's time must be devoted to the project;

(c) Prepare its procedures, findings, and conclusions in a manner that informs other interested researchers and is useful for advancing professional practice or improving programs and services to infants, toddlers, children, and youth with disabilities and their families; and

(d) Disseminate project procedures, findings, and conclusions to appropriate research institutes and technical assistance providers.

A project must include in the budget funds to attend the two-day Research Project Directors' meeting to be held in Washington, D.C. each year of the project.

For Further Information Contact: Doris Andres, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3526, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8125. FAX: (202) 205–8105. Internet: Doris__Andres@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Early Education Program for Children With Disabilities Program

Purpose of Program: To support activities that are designed (a) to address the special needs of children with disabilities, birth through age eight, and their families; and (b) to assist State and local entities in expanding and improving programs and services for these children and their families.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet any one of the following priorities. The Secretary proposes to fund under these competitions only applications that meet any one of these absolute priorities:

Proposed Absolute Priority 1—National Early Childhood Technical Assistance Center

Background: This proposed priority would support a national early childhood technical assistance center that will provide technical assistance to all States, outlying areas and the Bureau of Indian Affairs, in order to (1) assist each entity in implementing comprehensive and quality early intervention services under Part H for children ages birth through two and their families, and educational and related services for young children with disabilities (ages three through five) including minority children and children with limited English proficiency, and (2) help entities respond to needs identified through their self-assessment and State monitoring activities. The center will also provide technical assistance to early childhood projects funded by the Office of Special Education Programs (OSEP) under the IDEA. Utilizing State technical assistance systems, national organizations and their State divisions, other technical assistance and clearinghouse projects, the center will provide mechanisms to link professionals who are involved in producing new knowledge and products with program administrators and service providers.

Priority: The Secretary proposes to establish an absolute priority to support a national early childhood technical assistance center. The center must:

(a) Provide technical assistance to all States, outlying areas, and the Bureau of Indian Affairs as they implement early intervention services under Part H, and educational and related services for young children with disabilities. At a minimum, the center must (1) conduct annual needs assessments; (2) develop technical assistance agreements for each entity; (3) provide technical assistance, training, and on-going consultation based on the technical assistance agreements; (4) conduct annual meetings for Part H clients and for Section 619 clients; and (5) assist States in coordinating early intervention services and preschool services with IDEA school-age programs.

(b) Provide technical assistance to all early childhood projects funded by OSEP. At a minimum, the center must (1) conduct annual needs assessments; (2) develop technical assistance agreements for each project; (3) provide technical assistance, training, and on-going consultation based on the technical assistance agreements; and (4) conduct an annual meeting for directors of early childhood discretionary projects funded by OSEP;

(c) Establish an advisory group of persons with complementary expertise in the content and provision of technical assistance, e.g., State issues, project issues, family issues, parenting, evaluation, and needs of underrepresented children and families; to advise the center on its technical assistance activities;

(d) Link entities and OSEP-funded early childhood projects with national experts knowledgeable about best practice for young children with disabilities and their families, including children and families from cultural and linguistic minority groups;

(e) Develop informational exchanges between the center and State technical assistance systems; and among States with technical assistance systems;

(f) Develop an information system, current in content and technological accessibility, that contains data and materials to meet the technical assistance needs of the center's clients;

(g) Conduct at least two national forums that identify persistent problems, propose solutions, and respond to emerging issues and trends in early intervention and preschool;

(h) Facilitate exchanges of information among federal and State programs regarding funding and policy practices and implications for young children with disabilities and their families;

(i) Provide logistical and technical support to the Federal Interagency Coordinating Council;

(j) Compile and disseminate information about (1) early childhood projects funded by OSERS, (2) effective practices for early intervention and preschool programs, (3) major State activities related to implementing Section 619—Preschool Grants Program, (4) major State activities related to implementing the Infant and Toddler Program—Part H program, and (5) successful linkage activities and practices;

(k) Coordinate with other technical assistance networks to sponsor a forum that addresses model practices for national and State technical assistance provision;

(l) Evaluate the impact of the center's technical assistance system and its components relative to (1) the assessed needs of States, jurisdictions and early childhood projects; and (2) the national needs of young children with disabilities and their families.

The Secretary anticipates funding one cooperative agreement for a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the center for the fourth and fifth years of the project period, in addition to applying the requirements of 34 CFR 75.253(a), the Secretary will consider the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the center, are to be performed during the

last half of the center's second year and must be included in that year's evaluation required under 34 CFR 75.590. Funds to cover the costs of the review team must be included in the center's budget for year two. These costs are estimated to be approximately $4000.

The Secretary particularly encourages applicants for this cooperative agreement to incorporate technologically innovative approaches in all aspects of center activities, to improve their efficiency and impact.

Selection Criteria for Evaluating Applications. The Secretary proposes to use the following criteria to evaluate an application under the national early childhood technical assistance center competition. The maximum score for all the criteria is 100 points.

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary considers—

(i) The extent to which the management plan will ensure proper and efficient administration of the project;

(ii) The quality of the activities proposed to accomplish the goals and objectives;

(iii) The adequacy of proposed timelines for accomplishing those activities; and

(iv) Effectiveness in the ways in which the applicant plans to use the resources and personnel to accomplish the goals and objectives.

(3) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability.

(b) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use.

(2) The Assistant Secretary considers—

(i) The qualifications of the project director and project coordinator (if one is used);

(ii) The qualifications of each of the other key project personnel;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant will ensure that personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(3) To determine personnel qualifications under (b)(2)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application to determine the quality of the evaluation plan for the project.

(2) The Secretary considers—

(i) The extent to which the applicant's methods of evaluation are appropriate to the project; and

(ii) To the degree possible, the extent to which the applicant's methods of evaluation are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine adequacy of resources allocated to the project.

(2) The Secretary considers the adequacy of the facilities and the equipment and supplies that the applicant plans to use.

(f) *Evidence of need.* (10 points)

(1) The Secretary reviews each application to assess whether the need for the proposed technical assistance has been adequately justified.

(2) The Secretary determines the extent to which the application—

(i) Describes the technical assistance needs to be addressed by the project;

(ii) Describes how the applicant identified those needs;

(iii) Describes how those needs will be met by the project; and

(iv) Describes the benefits to be gained by meeting those needs.

(g) *Project design.* (40 points)

(1) The Secretary reviews each application to evaluate the quality of the proposed technical assistance project design.

(2) The Secretary determines the extent to which—

(i) The technical assistance objectives are designed to meet the identified needs and are clearly defined, measurable, and achievable;

(ii) The content of the proposed technical assistance is appropriate for all clients.

(3) The Secretary determines the extent to which each application provides for—

(i) Use of current research findings and information on model practices in providing the technical assistance.

(ii) Methods for linking all clients in need of technical assistance;

(iii) Innovative procedures for disseminating information and imparting skills to all clients; and

(iv) Innovative procedures for collaborating and coordinating with other entities that are involved with broader technical assistance efforts.

For Further Information Contact: Peggy Cvach, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4609, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9807. FAX: (202) 205–8971. Internet: Peggy__Cvach@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Proposed Absolute Priority 2—Model Demonstration Projects for Young Children With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving young children with disabilities (infants, toddlers, and children ages birth through eight) and their families, including minority children and children with limited English proficiency. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under the Individuals with Disabilities Education Act.

The Secretary anticipates funding projects for a project period of up to 60 months. Projects supported for an initial three-year period may be eligible for an additional two years of funding to field test the viability of their models at other site locations. In determining whether to continue funding for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit, are to be performed during a project's third year and may be included in that year's annual evaluation. The three-plus-two-year funding period is expected to determine whether models yielding positive results at an original site can be successfully replicated at other locations.

Priority: A model demonstration project must—

(a) Develop and implement programs that address a service problem or issue in the most natural or least restrictive environment;

(b) Develop and implement programs with specific components or strategies that are based on theory, research, or evaluation data;

(c) Produce detailed procedures and materials that enable others to replicate the model as implemented at the original site; and,

(d) Evaluate the model at the original model development site and—if approved for funding beyond the initial three years of the project period—at other sites to determine whether the model can be adopted by other sites and yield similar positive results. In its evaluation, a project must use multiple outcome measures to determine the effectiveness of the model and its components or strategies, including measures of multiple, functional child and family outcomes, other indicators of the effects of the model, and cost data associated with implementing the model.

In determining whether to continue a project for the fourth and fifth years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The degree to which the model developed by the project is, or would be by the end of year three, viable and replicable by other agencies, and provides state-of-the-art interventions.

(b) The extent to which dissemination of the model would meet a significant or unique service need in other geographic locations.

(c) Compelling, quantifiable evidence of the effectiveness of the model as implemented at the original development site.

(d) Availability of funding for the model from sources other than discretionary grants under the Individuals with Disabilities Education Act to support the operation of the model at the original development site during years four and five.

(e) Evidence of the commitment of other agencies not affiliated with the original project to adopt its model and participate in evaluation of the model during years four and five of the project period.

(f) The extent to which the project has sound plans for aiding in replication and for evaluating its model at replication sites during years four and five of the project period.

A project that applies for funding for the fourth and fifth years must set aside in its budget for the third year funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the third year. These funds are estimated to be approximately $4,000.

For Further Information Contact: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4623, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9377. Fax: (202) 205–8971. Internet: Patricia__Wright@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Proposed Absolute Priority 3—Outreach Projects for Young Children With Disabilities

Background: This priority supports projects that assist educational and other agencies in implementing proven models, components of models, and other exemplary practices, to improve services for young children with disabilities (infants, toddlers, and children ages birth through eight) and their families, including minority children and children with limited English proficiency. To accomplish this goal, State agencies and local service agencies need information about and assistance in accessing the range of available, successful practices, curricula, and products.

The models, components of models, or exemplary practices selected for outreach need not have been developed through the Early Childhood Education Program under the Individuals with Disabilities Education Act (IDEA), or by the applicant.

To increase the impact of outreach activities, projects are encouraged to select sites in multiple States. The Department of Education funds an Early Childhood Technical Assistance Center under IDEA to assist outreach projects in addressing the needs of States. This Center will help projects match their resources to identified States' needs for years two and three. Therefore, the plan of operation for projects planning to conduct outreach activities in multiple States should include plans concerning specific sites and activities for the initial year only.

Priority: An outreach project must—

(a) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve services for young children with disabilities and their families in the most natural or least restrictive environment;

(b) Coordinate its dissemination and replication activities with the lead agency for Part H of the IDEA for early intervention services or the State educational agency for special education, as well as with technical assistance, information, and personnel development networks within the State;

(c) Involve families in the design, implementation, and evaluation of project activities;

(d) Ensure interagency coordination if multiple agencies are involved in the provision of services;

(e) Ensure that the model, components of models, or exemplary practices are consistent with Part B and Part H of IDEA, are state-of-the-art, match the needs of the proposed sites, and have evaluation data supporting their effectiveness;

(f) Include public awareness, product development and dissemination, training, and technical assistance activities, and written plans for site development;

(g) Describe criteria for selecting implementation sites and, for potential users, the expected costs, needed personnel, staff training, equipment, and sequence of implementation activities; and

(h) Evaluate the outreach activities to determine their effectiveness. The evaluation must include the types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of children and families served at the site where models were adopted or adapted, child progress and family satisfaction, and changes in the model or practice made by sites.

For Further Information Contact: Lee Coleman, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4615, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8166. FAX: (202) 205–8971. Internet: Lee__Coleman@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Proposed Absolute Priority 4—Early Childhood Research Institutes

Background: The purpose of this priority is to support three early childhood research institutes, each of which will carry out research, development, evaluation and dissemination activities to improve early intervention and preschool services for children with disabilities and their families. One award will be made in each of the following three areas:

(1) Early Childhood Research Institute on Culturally and Linguistically Competent Services. This institute's program of research will focus on creating a resource bank of validated,

culturally and linguistically appropriate materials and documented strategies (including child find and child instructional materials, personnel training manuals, family services materials) that can be used by service providers to work effectively with infants, toddlers, and preschool age children with disabilities and their families who have special needs because of their cultural or linguistic backgrounds. In addition to developing and field testing new materials and documented strategies to fill gaps, the institute will collect and catalog already existing materials, conduct reviews and field testing of selected materials, and broadly disseminate information about how to access materials collected or created by the institute.

(2) Early Childhood Research Institute on Increasing Learning Opportunities for Children through Families. The purpose of this institute is to identify, develop and evaluate strategies that will increase the number and intensity of planned learning activities that parents, and other caregivers can implement in structured and unstructured settings for infants, toddlers, and preschool age children with disabilities to prepare these children to enter school ready to learn, including those who are members of racial minority groups and individuals with limited English proficiency. These strategies (such as incidental teaching, use of educational games and toys, technology applications, evening and weekend activities) must be designed in a way that will complement services that are specified on Individualized Family Service Plans and Individual Education Programs and promote further skill acquisition, generalization and child growth and development. The institute will conduct a series of investigations to determine the effects and costs of various strategies that are developed in each of the following areas of child development: cognitive development, communication development, physical development, and social and emotional development. The institute's dissemination efforts will include the preparation of manuals for professionals, parents, and other caregivers that describe (1) procedures to determine additional learning opportunities for individual children, and (2) how to implement the strategies in a variety of settings and in a manner that complements other early intervention and preschool services.

(3) Early Childhood Research Institute on Program Performance Measures. The purpose of this institute is to develop, evaluate, and disseminate a program performance measurement system for early intervention, preschool, and primary-grade programs serving children with disabilities (birth through eight years) and their families. The performance measurement system will consist of child and family outcomes for different child ages within the early childhood age range as well as indicators and sources of data corresponding to each outcome. These child and family outcomes, indicators, and sources of data must be useful for tracking the progress of a broad range of children and families with different disabilities and characteristics and for measuring the impact and effectiveness of early childhood programs. For the performance measurement system to be useful at federal, State, and local levels, it will include child and family outcomes of a general nature (i.e., outcomes appropriate for tracking the progress of all young children with disabilities and their families, including those who are members of cultural, linguistic, or racial minority groups) as well as sets of more specific outcomes. Each of the sets of more specific outcomes should correspond with a particular subgroup of children and families (e.g., children who are visually-impaired; families with incomes below the poverty level) that have characteristics unique to that subgroup, and that are appropriately separated from other subgroups for more precise and relevant measurement purposes.

In carrying out the developmental work, which will include consensus development activities based on input from a variety of professionals and parents, the institute will build upon other relevant efforts, including the work of the National Center on Educational Outcomes and the National Goals Panel on School Readiness. Once the initial developmental work is complete, the institute will conduct research activities to determine the feasibility, usefulness and appropriateness of the outcomes, indicators, and data sources in a variety of programs serving young children with disabilities and their families. The results of the research will include a system for measuring child and family attainment of outcomes, indicators of outcomes that are written in operational terms, and instruments and other data sources for each outcome. The measurement system must be designed in a manner that captures partial attainment or progress toward attainment of each outcome, and a method of using the results of the measurement system for program improvement.

Priority: Each institute considered for funding under this priority must—

(a) Conduct a program of research and development that addresses one of the issues identified above;

(b) Identify specific strategies and procedures that will be investigated;

(c) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the strategies and procedures to be studied, the research methods and instrumentation that will be used, and the specific target populations and settings that will be studied;

(d) Collect, analyze, and report a variety of data, including (1) information on the settings, the service providers, the children and families targeted by the institute (e.g., age, disability, level of functioning and membership in a special population, if appropriate), (2) outcome data from multiple measures for the children and families who are the focus of the strategies and procedures; and (3) implementation data from the service providers, administrators and others involved in the research;

(e) Conduct the research with a broad range of children with disabilities and their families who are receiving early intervention and preschool services in typical service delivery settings;

(f) Conduct the research using methodological procedures that are designed to produce unambiguous findings regarding the effects of the strategies and procedures, as well as any findings on interaction effects between particular strategies and particular characteristics of participants or settings. These findings will be obtained through appropriate sample selection and adequate sample size to permit use of the findings in policy analyses;

(g) Design research activities that lead to improved services for children with disabilities and their families;

(h) Develop and field test products that can be used for training and technical assistance activities with policy makers, administrators, school board members, parents, and service providers that are likely to facilitate the implementation of the institute's findings and products in a variety of early intervention and preschool settings;

(i) Coordinate the research activities with other relevant efforts sponsored by the U.S. Department of Education, including other research institutes, technical assistance entities, and information clearinghouses;

(j) Provide training and research opportunities for a limited number of graduate students.

The Secretary anticipates funding three cooperative agreements with a

project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue an institute for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), will consider the following:

(1) The recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the Institute, are to be performed during the last half of the Institute's second year and must be included in that year's evaluation required under 34 CFR 75.590. In its budget for the second year, the Institute must set aside funds to cover the costs of the review team. These funds are estimated to be approximately $4,000; (2) the timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute; and (3) the degree to which the Institute's research designs and methodological procedures demonstrate the potential for producing significant new knowledge and products.

For Further Information Contact: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, SW., Room 4623, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–9377. FAX: (202) 205–8971. Internet: Patricia__Wright@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 309.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1423.

Educational Media Research, Production, Distribution, and Training Program

Purpose of Program: To promote the general welfare of deaf and hard of hearing individuals and individuals with visual impairments, and to promote the educational advancement of individuals with disabilities.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Closed-Captioned Television Programs

Background: This priority supports cooperative agreements to provide closed-captioning of television programs in a variety of areas: (1) National news and public information programs; (2) movies, mini-series, special programs, and other programs broadcast during prime-time; (3) children's programs; and (4) syndicated television programs.

National News and Public Information. This activity will continue and expand closed-captioned national news, public information programs, and emergency programming, so that persons with hearing impairments can have access to up-to-date national morning, evening, and weekend news, as well as information concerning current events and other significant public information. In making awards the Secretary will consider the extent to which programs on each major national commercial and public broadcast network continue to be captioned. For news and public information programs that have previously been captioned, funds provided under this category may be used to support no more than one-half of the captioning costs. Funds provided under this category also may be used to support the captioning of emergency programming.

Movies, Mini-Series, and Special Programs. This activity will continue and expand the closed-captioning of movies, mini-series, and special programs available on major national broadcast networks or basic cable networks. In making awards the Secretary will consider the extent to which prime-time movies and other programs on each major national commercial broadcast network continue to be closed-captioned. Funds provided under this category may be used to support no more than one-half of the captioning costs for movies, mini-series, and special programs.

Children's Programs. This activity will provide closed-captioning of children's programs shown on national commercial and public broadcast networks, as well as syndicated and basic cable programs shown nationally, so that children who are deaf or hard of hearing will have access to popular children's programs. In making awards the Secretary will consider the extent to which children's programs on each major national commercial and public broadcast network, syndicated, and basic cable children's programs continue to be captioned.

Syndicated Television Programming. This activity will provide closed-captioning of syndicated television programs, thereby making a variety of programs available at different times, depending on local distribution. Syndicated programming includes both evergreen programming (popular previously-broadcast programs or series), and new programs distributed for showing on individual stations. In making awards, the Secretary considers the anticipated shelf-life and the range of distribution of the captioned programs possible without further costs to the project beyond the initial captioning costs, as well as the extent to which programs currently captioned may continue to be captioned.

Priority: Under this competition, the Secretary intends to make one or more awards in each of the four areas of activity identified above. Each application may address only one of the areas of activity.

Projects must—

(a) Include procedures and criteria for selecting programs for captioning that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, and cultural experiences of individuals with hearing impairments;

(b) Provide a flexible plan to assure closed-captioning of television programs without interruption, while accommodating last-minute program substitutions and new programs;

(c) Identify the total number of hours and the projected cost per hour for each of the programs to be captioned;

(d) Identify for each proposed program to be captioned the source of private or other public support and the projected dollar amount of that support;

(e) Identify the methods of captioning to be used for each program—indicating whether captioning is provided in real-time, live display, offline, or reformatted—and the projected cost per hour for each method used;

(f) For national news and public information, provide and maintain back-up systems that will ensure successful, timely captioning service, despite national or regional emergency situations;

(g) Demonstrate the willingness of each major network or providers of syndicated programs included in the project to permit captioning of their programs;

(h) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations; and

(i) Identify the anticipated shelf-life, and the range of distribution of the programs captioned without further costs to the project beyond the initial captioning costs. (Syndicated programs only).

For Further Information Contact: Ernest Hairston, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4629, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9172. FAX: (202) 205–8971. Internet: Ernest__Hairston@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 330, 331, and 332.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1451, 1452.

Postsecondary Education Programs for Individuals With Disabilities Program

Purpose of Program: To provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Model Demonstration Projects to Improve the Delivery and Outcomes of Postsecondary Education for Individuals With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving the needs of students with disabilities in postsecondary settings. Projects supported under this priority are expected to be major contributors of models or components of models for service providers in the field and for outreach projects funded under the Individuals With Disabilities Education Act.

Although institutions of higher education have implemented measures to accommodate students with disabilities since the 1970's, longitudinal and follow-up studies of students exiting from secondary schools consistently show that proportionately fewer students with disabilities receive any type of postsecondary education than students without disabilities. Further, those students with disabilities who do attend postsecondary institutions are significantly less likely to complete their studies or to be employed following their postsecondary experience. To change these outcomes, a number of specific barriers must be addressed, including the following:

Improving student potential for successful postsecondary experiences. Some students with disabilities and their families may be unaware of the range of available postsecondary opportunities. Other students may be aware of these options but may not be prepared to benefit from postsecondary education. To increase the number of students with disabilities entering and successfully completing postsecondary education, there is a need to develop strategies for outreach activities to inform secondary special education teachers and counselors in secondary schools about the range of postsecondary opportunities available and how to work with students and families to understand and access these opportunities. Further, there is a need to develop or adapt programs such as Upward Bound and Talent Search that assist potential candidates to access postsecondary education.

Accommodating diverse learning styles in a range of academic settings. As the number and range of students with disabilities entering postsecondary institutions increase, there will be a continuing need for an institution's administration to accommodate or modify instructional strategies and classroom environments to promote improved participation and performance for these students. Thus, postsecondary institutions will have to work with individual faculty members and staff to implement the accommodations needed by particular students. This is likely to require institutional strategies (1) to understand state-of-the-art practice in accommodating the full range of students with disabilities in traditional and emerging learning environments, and (2) to provide training on an on-going, as well as student-specific, basis to faculty or staff.

Transferring of student accommodations to the employment setting. Students with disabilities who require classroom accommodations and adaptations to improve academic performance may require similar types of accommodations or adaptations on the job. In addition, specific jobs or professions may need additional accommodations or adaptations to successfully employ particular students with disabilities. Thus, there is a need to develop strategies for helping students, placement specialists, and employers determine the accommodations or adaptations that would be required for professions or employment settings of interest to the student, and for transferring or arranging for those accommodations. This is likely to require cooperative efforts among representatives of the services responsible for successful vocational placements for people with disabilities.

These collaborative efforts must include extensive involvement of representatives from an institution's program that provides support services to students with disabilities, the institution's career placement office, the State vocational rehabilitation (VR) agency (for VR-sponsored students), and business and industry.

Priority: A model demonstration project must—

(a) Develop and implement programs that address at least one of the three specific service issues described in the background of this proposed priority;

(b) Develop and implement programs with specific components or strategies that are based on theory, research, or evaluation data;

(c) Produce detailed procedures and materials that enable others to replicate the model as implemented in the original site; and,

(d) Evaluate the model by using multiple outcome measures to determine the effectiveness of the model and its components or strategies, including measures of multiple, functional student outcomes, other indicators of the effects of the model, and cost data associated with implementing the model.

For Further Information Contact: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer B Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. FAX: (202) 205–8971. Internet: Michael__Ward@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 338.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1424a.

Program for Children With Severe Disabilities

Purpose of Program: To provide Federal assistance to address the special needs of infants, toddlers, children, and youth with severe disabilities—including children with deaf-blindness—and their families.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Outreach Projects: Serving Children With Severe Disabilities in General Education and Community Settings

Background: This priority supports projects that assist educational and other agencies in implementing proven models, components of models, and exemplary practices to improve services for children and youth with severe disabilities and their families. State and local education agencies are engaged in systemic educational reform efforts emphasizing development of teaching and learning standards, student assessment, mobilizing community and parental support, technology, and school to work initiatives for all students. To support these efforts, State agencies and local service agencies need information on successful practices, curricula, and products that have proven effective in including students with severe disabilities in social and academic settings and activities.

The models, components of models, or exemplary practices selected for outreach activities need not have been developed through the Program for Children with Severe Disabilities under the Individuals with Disabilities Education Act, or by the applicant.

The practices to be implemented during the outreach activities may focus on, but are not limited to, transition from school to adult life, behavior management, coordination of services, or strategies that facilitate the inclusion of children with severe disabilities into their neighborhood schools and local communities. To increase their visibility and to enhance the impact of outreach activities, projects are encouraged to establish adoption sites in multiple States.

Priority: An outreach project must—

(a) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve services for children with severe disabilities and their families in general education and community settings;

(b) Coordinate its dissemination and replication activities with the lead agency for Part H of the IDEA for early intervention services or the State educational agency for special education, as well as technical assistance, information, and personnel development networks within the State;

(c) Involve children, as appropriate, and their families in the design, implementation, and evaluation of project activities;

(d) Ensure interagency coordination if multiple agencies are involved in the provision of services;

(e) Ensure that the models, components of models, or exemplary practices are consistent with Parts B and H of the IDEA, are state-of-the-art, match the needs of the proposed sites, and have evaluation data supporting their effectiveness;

(f) Include public awareness, product development and dissemination, training, and technical assistance activities, and written plans for site development;

(g) Describe criteria for selecting implementation sites and, for potential users, the expected costs, needed personnel, staff training, equipment, and the sequence of implementation activities;

(h) Evaluate the outreach activities to determine their effectiveness. The evaluation must include the types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of children and families served at the site where models or practices were adopted or adapted, child progress and family satisfaction, and changes in the model or practices made by sites.

For Further Information Contact: Anne Smith, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4621, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8888. Fax: (202) 205–8971. Internet: Anne__Smith@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 315.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1424.

Secondary Education and Transitional Services for Youth With Disabilities Program

Purpose of Program: To (1) assist youth with disabilities in the transition from secondary school to postsecondary environments, such as competitive or supported employment, and (2) ensure that secondary special education and transitional services result in competitive or supported employment for youth with disabilities.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet any one of the following priorities. The Secretary proposes to fund under these competitions only applications that meet any one of these absolute priorities:

Proposed Absolute Priority 1—Outreach Projects for Services for Youth With Disabilities

Background: This priority supports projects that assist educational and other agencies in implementing proven models, components of models, or other exemplary practices to improve secondary education and transitional services for youth with disabilities in areas such as continuing education, self-determination, vocational education and training, supported competitive employment, leisure and recreation, and independent living.

Data from the National Longitudinal Transition Study (NLTS) indicated that secondary education students with disabilities averaged 70% of their time in regular education settings. The study also suggests that 38% of students with disabilities drop out before their completion, with repeated course failure a strong predictor of dropping out. Many of these students were in regular education classes without the help of academic support services (e.g., tutors, study skills and test-taking preparation classes, learning labs). The provision of these services and enrollment in vocational training courses had significant ''holding power'' for those students who had the potential for dropping out. The NLTS also found that youth who belonged to school or community groups did better in school, were less likely to drop out, and experienced a higher probability of entering postsecondary education. Thus, there is a critical need for secondary schools to accommodate or modify

instructional strategies and classroom environments to promote improved participation and performance of students with disabilities.

The Individuals with Disabilities Education Act (IDEA) requires that a statement of needed transition services be included in the individualized education program (IEP) for each student beginning no later than age 16, and at a younger age, if determined appropriate, and that the services be updated on an annual basis (20 U.S.C. 1401(A)(20)(D)). To effectively meet this requirement, State agencies and local service agencies need information on successful practices, curricula, and products.

The models, components of models, or exemplary practices selected for outreach need not have been developed through the Secondary and Transitional Services Program under the IDEA, or by the applicant. To increase the impact of outreach activities, projects are encouraged to select sites in multiple regions or States.

Priority: An outreach project must—

(a) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve secondary and transitional services for students with disabilities in community-based settings or the least restrictive environment, as appropriate;

(b) Coordinate its dissemination and replication activities with relevant State and local educational agencies, consumer organizations, administrative entities established in the service delivery area under the Job Training Partnership Act, and, if appropriate, other systems for transitional services for youth with disabilities as well as with technical assistance, information, and personnel development networks within the State;

(c) Involve students and adults with disabilities in the design, implementation, and evaluation of project activities;

(d) Ensure coordination with schools, vocational rehabilitation agencies, adult service providers, and potential employers, if appropriate;

(e) Ensure that the model, components of models, or exemplary practices are consistent with Part B of the IDEA, are state-of-the-art, match the needs of proposed sites, and have evaluation data supporting their effectiveness;

(f) Include public awareness, product development and dissemination, training, and technical assistance activities, and written plans for site development;

(g) Describe criteria for selecting implementation sites and, for potential users, the expected costs, needed personnel, staff training, equipment, and the sequence of implementation activities;

(h) Evaluate the outreach activities to determine their effectiveness. The evaluation must include the types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of youth and families served at the site where models were adopted or adapted, youth progress and satisfaction, and changes in the model or practice made by sites.

For Further Information Contact: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. Fax: (202) 205–8971. Internet: Michael__Ward@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Proposed Absolute Priority 2—Model Demonstration Projects to Improve the Delivery and Outcomes of Secondary Education Services for Students With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving the needs of students with disabilities in secondary school settings. Projects must coordinate their activities with State and local partnerships developed under the School-to-Work Opportunities Act to prepare all students for high-skill, high-wage jobs or further education and training. In particular, the school-based learning activities must be tied to occupational skills standards and challenging academic standards. Projects supported under this priority are expected to be major contributors of models or components of models for secondary school services providers in the field and for outreach projects funded under the Individuals with Disabilities Education Act.

Data from the National Longitudinal Transition Study (NLTS) indicated that secondary education students with disabilities averaged 70% of their time in regular education settings. The study also suggests that 38% of students with disabilities drop out before their completion, with repeated course failure a strong predictor of dropping out. Many of these students were in regular education classes without the help of academic support services (e.g., tutors, study skills and test-taking preparation classes, learning labs). The provision of these services and enrollment in vocational training courses had significant ''holding power'' for those students who had the potential for dropping out. The NLTS also found that youth who belonged to school or community groups did better in school, were less likely to drop out, and experienced a higher probability of entering postsecondary education. Thus, there is a critical need for secondary schools to accommodate or modify instructional strategies and classroom environments to promote improved participation and performance for students with disabilities.

In order to meet the needs of students with disabilities in secondary settings, a number of service issues need to be addressed: (a) Providing counseling, tutoring, assistive technology and other support strategies to prevent course failure among students with disabilities; (b) restructuring academic and/or vocational course offerings (e.g., content, instructional procedures, and sequencing) to accommodate students with disabilities with diverse learning needs and styles; (c) revising academic courses in a manner that directly complements skills taught in vocational education programs and in other courses; and (d) developing extracurricular activities for students with disabilities that promote the retention and generalization of academic and vocational skills in a variety of settings.

In order to implement the accommodations needed by particular students, it is important that strategies be developed in coordination with individual teachers and related services personnel. These linkages are likely to result from institutional strategies that (1) are based on an understanding of state-of-the-art practice in accommodating the full range of students with disabilities in traditional and emerging learning environments, and (2) provide training on an on-going, as well as student-specific, basis to teachers and other personnel.

Priority: A model demonstration project must—

(1) Develop and implement programs that address at least one of the specific service issues described in the background of this proposed priority;

(2) Develop and implement programs with specific components or strategies that are based on theory, research, or evaluation data;

(3) Produce detailed procedures and materials that would enable others to replicate the model as implemented in the original site; and,

(4) Evaluate the model by using multiple outcome measures to determine the effectiveness of the model and its components or strategies, including measures of multiple, functional student and family outcomes, other indicators of the effects of the model, and cost data associated with implementing the model.

For Further Information Contact: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. Fax: (202) 205–8971. Internet: Michael__Ward@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 326.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1425.

Special Studies Program

Purpose of Program: To support studies to evaluate the impact of the Individuals with Disabilities Education Act (IDEA), including efforts to provide a free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet any one of the following priorities. The Secretary proposes to fund under these competitions only applications that meet any one of these absolute priorities:

Proposed Absolute Priority 1—Testing the Use of An Instrument to Measure Student Progress

Background: The Office of Special Education Programs funded the development and testing of the PASS (Performance Assessment for Self-Sufficiency) system to respond to the needs of local, State, and federal agencies for information on the post-school services required by students with disabilities as they make the transition to adult service delivery systems. The field test of PASS indicated that the system also had great potential for use in measuring student outcomes. The findings from the field test on the utility of the PASS system indicate that PASS may be useful for a wide range of purposes including:

- Developing a systematic method of estimating the post-school needs of exiting students with disabilities.
- Developing a transition planning tool that would be used to develop and monitor individualized education/transition plans (IEPs/ITPs), to track student progress, and to be used for follow-up purposes after exiting school.
- Documenting outcomes, identifying programs and curriculum needs, and for evaluating programs.
- Improving interagency coordination and teamwork.
- Providing a common database for use at local, State and national levels.

The results of the field test lead the Office of Special Education Programs to conclude that deployment of the PASS at this time is premature and an investigation of the feasibility and utility of the PASS system as a tool for transition planning, and for measuring student outcomes, is in order.

The PASS System. The PASS system has two main components: The PASS Instrument, and the PASS Expert System. The PASS instrument obtains teachers' assessments of four major competency areas related to functional performance skills demanded by adult life. First, teachers complete the PASS instrument which provides ratings of students for a broad array of functional performance indicators in four general domains: Daily Living, Personal and Social Development, Employment, and Educational Performance. The specific skills and behaviors targeted on the PASS instrument are ones that are typically required for adult life and that have service implications. For example, very low performance ratings on several specific indicators—such as ''moves self about in immediate neighborhood (E.G., walking, bicycling), ''uses public transportation if available (e.g., bus, taxi), ''uses maps and bus schedules when appropriate'', etc.—suggest differing needs for assistance with mobility and transportation aspects of daily living. The PASS also provides information about the student's training, education, and employment, as well as major problem behaviors. No special assessment is required: teachers complete the PASS based on what they already know about the student from direct observation or input from colleagues who work with the student. The instrument was developed in collaboration with well-known transition experts, and involved considerable interaction with State and local administrators and practitioners in both special education and adult services. It has been produced in a machine-scanable format.

The second component is the PASS expert system which is a micro-computer-based program that converts the PASS data into projected service estimates for individuals and groups based on data from the PASS questionnaire. The prototype expert system, which incorporates the knowledge and expertise of more than 30 special education and adult services practitioners across the country, was field tested in over 100 school districts in 10 States to test the feasibility of administrative procedures for collecting PASS data from schools and to guide refinement of the PASS instrument and expert system prototype.

The American Institutes for Research (AIR) developed the rudimentary prototype PASS system and tested its administrative feasibility. AIR developed the following deliverables, which are available from the Office of Special Education Programs: Evaluation of the Utility of the PASS System; Technical Documentation for the PASS Expert System; Technical Manual for the PASS Instrument; USER Guide to the PASS Expert System; Report on the Administrative Feasibility of the PASS System; Technical Documentation for the PASS Expert System; Recommendations and Rationales for Revisions to the PASS Instrument and Instructions.

Priority: The Assistant Secretary proposes to establish an absolute priority for a project, through a cooperative agreement, to assist the Office of Special Education Programs in evaluating the feasibility and utility of the PASS system: (a) As a tool for transition planning, across all disability categories and levels of severity; and (b) as a tool for measuring student outcomes, across all disability categories and levels of severity. Additionally, the project will validate the expert system's decision rules.

The project must:

(a) Develop the conceptual framework for the study;

(b) Establish a Stakeholder group that will advise the project on the study design;

(c) Develop data collection methods and instruments;

(d) Develop methods of data analysis;

(e) Carryout a field test;

(f) Provide guidance and support to States participating in the field test;

(g) Analyze the results of the field test and prepare a final report on the findings of the study; and

(h) Budget for two trips to Washington, D.C. each year. One trip to meet with the OSEP Project Officer and

one trip to attend the annual Project Director's Meeting.

For Further Information Contact: Susan Sanchez, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3524, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8998. FAX: (202) 205–8105. Internet: Susan__Sanchez@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–2641.

Proposed Absolute Priority 2—State-Federal Administrative Information Exchange

Background: Information for decisionmaking and policy development to ensure appropriate and effective education and early intervention for all infants, toddlers, children and youth with disabilities is critically important. State and Federal decision-makers responsible for the implementation of the Individuals with Disabilities Education Act (IDEA) must have access to valid statistics, research findings, and policy options, as well as current information on trends in providing of special education and related services.

The Office of Special Education Programs (OSEP) within the U.S. Department of Education has the responsibility for Federal administration of the IDEA. State Education Agencies (SEAs), or other designated State agencies under Part H of the Act, oversee the administration of the Act at State and local levels. This project will facilitate the access and analysis of administrative and policy information to and from the States and help other jurisdictions, and to ensure the flow of communication between the Federal Government and administrators of IDEA at State and local levels.

Priority: The Secretary proposes to establish a priority to facilitate communication between the U.S. Department of Education and State and local administrators of IDEA, and to synthesize national program information that will improve the management, administration, delivery and effectiveness of programs and services provided under the Act. The cooperative agreement funded under this priority will provide a mechanism and resources to the Department for analyzing policies and emerging issues that are of significant national concern.

The project must—

(1) Identify national and State program improvement information that is needed to obtain better results in education and providing early intervention services for infants, toddlers, children, and youth with disabilities;

(2) Organize, synthesize, interpret, integrate, and facilitate dissemination of information needed for program improvement;

(3) Analyze emerging policy or program issues regarding the administration of special education, early intervention, and related services at the Federal, State and local levels;

(4) Facilitate the use of information at Federal, State and local levels for program improvement for infants, toddlers, children, and youth with disabilities.

The project must organize, coordinate, and maintain a data base of laws, policies, and regulations that govern special education within the States and other jurisdictions; communicate, on a regular basis, with State educational agencies to identify emerging policy issues; obtain, analyze and synthesize information relative to the emerging issues; and convene experts, special education administrators, and others to review, plan, and provide leadership in recommending multi-level actions that respond to the emerging issues. The project must communicate regularly with the Office of Special Education Programs to ensure the continuing flow and development of information that may be required at the Federal level to facilitate the improvement and efficiency of administration of the IDEA by the U.S. Department of Education.

Upon request of the OSEP project officer, the project should meet with other funded projects of OSEP for purposes of cross-project collaboration and information exchange. The project must also budget for two trips annually to Washington, D.C. for: (1) A two-day Research Project Directors' meeting; and (2) another meeting to meet and collaborate with the OSEP project officer.

For Further Information Contact: Jane C. Williams, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3529, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9039. FAX: (202) 205–8105. Internet: Jane__Williams@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 327.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1418.

Program for Children and Youth With Serious Emotional Disturbance

Purpose of Program: To support projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under these competitions only applications that meet this absolute priority:

Proposed Absolute Priority—Developing Effective Secondary School-Based Practices for Youth With Serious Emotional Disturbance

Background: Recent nationwide research on secondary school experiences and post-school outcomes for students with disabilities finds that youth with serious emotional disturbance (SED) are at particularly high risk for school failure and for poor post-school outcomes. While the majority of secondary age students with SED attend regular high schools, most of these students receive special education and related services outside the regular classroom for a substantial part, or all, of their school day. SED students attending regular secondary schools tend, as a group: to display erratic school attendance patterns; to achieve low levels of academic success despite generally normal-and-above ability levels; to be minimally involved in the social milieu of their schools; and to drop out of school at alarming rates. Fifty percent drop out of school, most by the tenth grade.

Poor adjustment and behavioral concerns are common during and beyond high school among these students. Data from the National Longitudinal Transition Study show that only one in ten students with serious emotional disturbance have behavior management plans. They tend to be under- or un-employed, are rarely involved in post-secondary education, and are at high risk for engaging in activities and behaviors outside the bounds of the law.

While fairly substantial recent and current efforts are focusing on

improving results for younger students with SED, little attention is being directed toward their secondary-age counterparts. This priority is intended to address this critical need.

Priority: The Secretary proposes to establish an absolute priority for projects to develop, implement, test the efficacy of, and disseminate practices for improving academic, vocational, personal, social, and behavioral results for students with SED in regular high schools, including consideration of the most appropriate and least restrictive placements.

Under this priority, projects must—

(1) Develop practices with sound conceptual bases that are designed to improve critical academic, vocational, personal, social, and behavioral outcomes for SED students;

(2) Apply rigorous research standards in testing the efficacy of practices developed;

(3) Develop products that include clear, comprehensive descriptions of tested practices, test site contexts, and target student characteristics, and disseminate these products to appropriate research institutes, clearinghouses, and technical assistance providers.

A project must budget for two trips annually to Washington, D.C. for: (1) A two-day Research Project Directors' meeting; and (2) another meeting to meet and collaborate with the OSEP project officer and with other relevant OSEP funded projects.

For Further Information Contact: Helen Thornton, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3520, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5910. Fax: (202) 205–8105. Internet: Helen__Thornton@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 328.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Program Authority: 20 U.S.C. 1423.

Intergovernmental Review

Except for the Research in Education of Individuals with Disabilities Program (84.023) and the Special Studies Program (84.159), all other programs included in this notice are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3524, 300 C Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Dated: September 14, 1995.

Howard R. Moses,

Acting Assistant for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Early Education Program for Children with Disabilities, 84.024; Media Research, Production, Distribution, and Training Program, 84.026; Postsecondary Education Program for Individuals with Disabilities Program, 84.078; Program for Children with Severe Disabilities, 84.086; Secondary Education and Transitional Services Program for Youth with Disabilities, 84.158; Special Studies Program, 84.159; and Program for Children and Youth with Serious Emotional Disturbance, 84.237)

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Federal Register

Tuesday
November 7, 1995

Part III

Department of Agriculture

Office of the Secretary

7 CFR Part 24

Revision of Rules of Procedure, Agriculture Board of Contract Appeals; Final Rule

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 24

Revision of Rules of Procedure, Agriculture Board of Contract Appeals

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Agriculture Board of Contract Appeals (''AGBCA'') hereby revises its Rules of Procedure, 7 CFR Part 24, by making minor modifications to implement the requirements of the Federal Acquisition Streamlining Act of 1994 regarding amounts in controversy for use of expedited and accelerated procedures; to describe the Board's jurisdiction in conformance with current Departmental regulations; to eliminate the Rules of Procedure for ''nonstatutory'' appeals contained in 7 CFR 24.21 Appendix B (used primarily for pre-Contract Disputes Act (''CDA'') appeals); and to make minor technical corrections to the rules of procedure to streamline conduct of appeals and conform to current AGBCA practice. The intended effect of these changes is to provide one streamlined set of rules of procedure applicable to all appeals within the AGBCA's jurisdiction.

DATES: This rule is effective November 7, 1995.

FOR FURTHER INFORMATION CONTACT: M.C. Shager, Chief Counsel, Board of Contract Appeals, U.S. Department of Agriculture, 2912 South Building, Washington, D.C. 20250. Telephone (202) 720–7023.

SUPPLEMENTARY INFORMATION: These changes have been reviewed under United States Department of Agriculture (''USDA'') procedures established by Executive Order 12866 and Departmental Regulation 1512–1. These changes constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures.

These changes have been determined to be ''not significant'' for the purposes of Executive Order 12866, Regulatory Planning and Review, and therefore have not been reviewed by the Office of Management and Budget (''OMB'').

These changes do not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 501 *et seq.*).

It has been determined under section 6(a) of Executive Order 12612, Federalism, that these changes do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in these changes will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Under the Regulatory Flexibility Act (5 U.S.C. 605), these changes will not have a significant impact on a substantial number of small entities. These changes do not increase the paperwork burden on contractors filing appeals with the AGBCA because these changes only conform the Board's jurisdiction to existing USDA regulations and change the thresholds for accelerated and expedited appeals consistent with the Federal Acquisition Streamlining Act of 1994 (Pub. L. No. 103–355) (''FASA''). Therefore, these changes are determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

The Office of the General Counsel has determined that these changes meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778, Civil Justice Reform.

These changes are not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

These changes contain modifications to implement the requirements of the FASA regarding amounts in controversy for use of expedited and accelerated procedures; to describe the Board's jurisdiction in conformance with current Departmental regulations; to eliminate the Rules of Procedure for ''nonstatutory'' appeals contained in 7 CFR 24.21 Appendix B; and to make minor technical corrections to the rules of procedure to streamline the conduct of appeals and conform to current AGBCA practice. The intended effect of these changes is to provide one streamlined set of rules of procedure applicable to all appeals within the AGBCA's jurisdiction.

These changes relate to internal agency management and rules of procedure and practice in formal adjudicatory proceedings. The provisions of the Administrative Procedure Act concerning notice and opportunity for comment on agency rulemaking (5 U.S.C. 553) do not apply to the promulgation of agency rules of practice. For this reason these changes are made effective upon publication in the Federal Register.

For ease of reading, the AGBCA's entire Rules of Procedure are included, including republished or revised sections. The major revisions are summarized here:

§ 24.2 Composition of the Board. The rule allows the AGBCA's Vice Chair to act for the Chair upon request or absence of the Chair.

§ 24.4 Jurisdiction. In accordance with other USDA regulations, jurisdiction over appeals from certain Federal Crop Insurance Corporation final administrative decisions regarding reinsurance agreements has been added, and the AGBCA's jurisdiction over appeals of debarments and suspensions has been clarified to conform to AGBCA decisions and Departmental practice that the AGBCA's decisions are final within the Department. The title of the Contract Work Hours and Safety Standards Act has been corrected and the AGBCA's jurisdiction has been clarified in accordance with statutory language. The distinction between ''statutory'' and ''nonstatutory'' jurisdiction has been eliminated.

§ 24.5 Time for Filing Notice of Appeal. The time limits have been clarified for each type of AGBCA jurisdiction.

§ 24.6 Board Location and Address. The AGBCA's telephone and facsimile numbers have been added.

§ 24.9 Definitions. The unnecessary definition of contracting officer of the Forest Service has been eliminated. The definition of ''days'' has been added to this section.

§ 24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA. The definition of ''days'' has been removed from this section and added to the definitions section.

Rule 1(b) & (c). In accordance with section 2351(b) of FASA, the threshold for certification, decision, and notification has been raised from $50,000 to $100,000. These rules have been modified to reflect this change.

Rule 3 now indicates that the AGBCA will provide appellants with a copy of the notice on Alternative Dispute Resolution with the notice of docketing.

Rules 4(a) & (b), 6(a) & (b) now require that, except for the Complaint, the parties should serve documents on the opposing party rather than filing all copies with the AGBCA.

Rule 12.1(a). In accordance with section 2351(d) of FASA, the maximum for applicability of the small claims (expedited) procedures has been raised from $10,000 to $50,000.

Rule 12.1(b). In accordance with section 2351(c) of FASA, the maximum for applicability of the accelerated procedures has been raised from

$50,000 to $100,000. Rule 12.3(c) has a similar change.

Rule 16(a) now conforms to the AGBCA's current practice of requiring parties to file the Complaint directly with the Board but to serve copies of other documents directly on the opposing party, and to use certified mail, return receipt requested, for serving papers.

Rule 16(b) now allows use of facsimile transmissions, specifies that receipt occurs upon receipt by facsimile of the entire document, and cautions parties that time limits will not be extended merely because of facsimile equipment failures.

Rule 20 now clarifies that Administrative Judges may issue subpoenas only in CDA appeals.

Rule 21.1. New rule 21.1 provide that the Chair has authority to request the appropriate United States Attorney to apply for subpoenas in non-CDA appeals.

Rule 30 now provides that the AGBCA may specify a time shorter than three years within which parties must act to reinstate appeals dismissed without prejudice.

Rule 34. Former Rule 34 described the application of the AGBCA's Rules of Procedure to various contracts. Because this information is contained in § 24.4, this rule is eliminated. New Rule 34 notifies parties of the availability of methods of Alternative Dispute Resolution.

Rule 35. New rule 35 notifies parties of the USDA's rules regarding applications for attorneys' fees and expenses under the Equal Access to Justice Act, 5 U.S.C. 504.

The Rules of Procedure for ''nonstatutory'' appeals contained in 7 CFR 24.21 Appendix B are eliminated.

List of Subjects in 7 CFR Part 24

Administrative practice and procedure; Agriculture; Government contracts; Organization and functions (Government agencies).

For the reasons set forth in the Preamble, and under the Secretary's authority, 5 U.S.C. 301, part 24, title 7, Code of Federal Regulations is revised to read as follows:

PART 24—BOARD OF CONTRACT APPEALS, DEPARTMENT OF AGRICULTURE

Subpart A—Organization and Functions

Sec.

Subpart B—Rules of Procedure

Authority: 5 U.S.C. 301; 15 U.S.C. 714b, 714g, and 714h; 16 U.S.C. 551; 40 U.S.C. 486(c); 41 U.S.C. 601–613.

Subpart A—Organization and Functions

§ 24.1 General.

The Board of Contract Appeals, United States Department of Agriculture (referred to as the ''Board'') is an agency of the Department established by the Secretary of Agriculture in accordance with the requirements of the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The provisions of 5 U.S.C. 551–559 (Administrative Procedure Act) are not applicable to proceedings before the Board except for the requirements under 5 U.S.C. 552 respecting public information, agency rules, opinions, orders, and records.

§ 24.2 Composition of the Board.

The Board consists of a Chair, Vice Chair, and other members, all of whom are attorneys at law duly licensed by a state, commonwealth, territory, or the District of Columbia. The Board members are designated Administrative Judges. The Chair shall manage the business and operations of the Board, assign cases to members, and establish panels for cases. Except as provided in Rule 12.2, the Small Claims (Expedited) Procedure, and Rule 12.3, the Accelerated procedure, decisions of the Board will be rendered by a panel of three Administrative Judges, and the decision of the majority of the panel will constitute the decision of the Board. The Vice Chair shall perform the functions of the Chair upon request of the Chair or in the event of absence or unavailability of the Chair to act.

§ 24.3 Presiding Administrative Judge.

The Chair acts as presiding Administrative Judge, or designates a member of the Board or an examiner to so act, in each proceeding. The Presiding Administrative Judge or the examiner has power to:

(a) Rule upon motions and request;

(b) Adjourn the hearing from time to time and change the time and place of hearing;

(c) Administer oaths and affirmations and take affidavits;

(d) Receive evidence;

(e) Order the taking of depositions;

(f) Admit or exclude evidence;

(g) Hear oral argument on facts or law;

(h) Consolidate appeals filed by two or more appellants; and

(i) Do all acts and take all measures necessary for the maintenance of order at the hearing and the efficient conduct of the proceeding.

In cases considered by the Board under § 24.4(b), (c), and (d) the Chair is hereby delegated authority to request subpoenas pursuant to 5 U.S.C. 304.

§ 24.4 Jurisdiction.

(a) *Contract Disputes Act.* Pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601–613), the Board shall consider and determine appeals from decisions of contracting officers relating to contracts entered into on or after March 1, 1979, and, at the contractor's election, contracts entered into prior to March 1, 1979, with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter. For purposes of this paragraph (a) the term ''contracts'' shall mean express or implied contracts made by the Department of Agriculture, agencies of the Department, or by any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal, for:

(1) The procurement of property, other than real property in being;

(2) The procurement of services;

(3) The procurement of construction, alternation, repair, or maintenance of real property; or

(4) The disposal of personal property.

(b) *Federal Crop Insurance Corporation.* The Board shall have jurisdiction of appeals of final administrative determinations of the Corporation pertaining to standard reinsurance agreements under 7 CFR 400.169(d). Decisions of the Board shall be final within the Corporation and the Department.

(c) *Suspension and debarment.* (1) The Board shall have jurisdiction to hear and determine the issue of suspension or debarment, and the period thereof, on an appeal by a person suspended or debarred by:

(i) An authorized official of the Department of Agriculture under 48 CFR 409.470; or

(ii) An authorized official of the Commodity Credit Corporation under 7 CFR part 1407.

(2) In addition, the Board shall have jurisdiction to hear and determine the issue of debarment, and the period thereof, on an appeal by a timber purchaser debarred by an authorized official of the Forest Service under 36 CFR 223.138.

(3) Decisions of the Board shall be final within the Department.

(d) *Contract Work Hours and Safety Standards Act.* The Board shall have jurisdiction to act for the head of the agency in appeals of the administrative determinations of liquidated damages under the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), 40 U.S.C. 330.

§ 24.5 Time for filing notice of appeal.

A notice of appeal under § 24.4(a), (c)(1)(i), or (c)(1)(ii) shall be filed within 90 days from the date of receipt of a contracting officer's or suspending or debarring official's decision. A notice of appeal under § 24.4(b) shall be filed within 90 days from the date of receipt of the Corporation's final determination. A notice of appeal under § 24.4(c)(2) shall be filed within 30 days from the date of receipt of the debarring official's decision. A notice of appeal under § 24.4(d) shall be filed within 60 days from the date of withholding of liquidated damages. The time for filing a notice of appeal shall not be extended by the Board.

§ 24.6 Board location and address.

The Board of Contract Appeals is located in Washington, DC. All correspondence and all documents to be filed with the Board should be addressed to the Board of Contract Appeals, United States Department of Agriculture, Washington, DC 20250–0600. The Board's telephone number is 202–720–7023; the Board's facsimile number is 202–720–3059.

§ 24.7 Public information.

(a) The records of the Board are open to the public for inspection and copying at the Office of the Board. Decisions and rulings of the Board shall be published from time to time and copies made available to the public upon request at cost of duplication except that the Board shall, in its discretion, have authority to make copies of decisions and rulings available at no charge in accordance with Department policy, appendix A to 7 CFR part 1, subpart A. Hearings before the Board shall be open to the public.

(b) Information that is to be made available for public inspection and copying under provisions of 5 U.S.C. 552(a)(2) and 7 CFR 1.5 may be obtained at the office of the Board. The address of the Board is set forth in § 24.6. Except for such information as is generally available to the public, requests should be in writing and submitted in accordance with 7 CFR 1.6 and paragraphs (c) and (d) of this § 24.7.

(c) Facilities for copying are available at the office of the Board.

(d) Facilities for inspection and copying are available during established office hours for the Board, usually 8:30 a.m. to 5:00 p.m. Monday through Friday. The Department of Agriculture has established a schedule of fees for copies of information. The Board charges for copies of records in accordance with the Department fee schedule, appendix A to 7 CFR part 1, subpart A.

(e) The Vice Chair is authorized to receive requests for records submitted in accordance with 7 CFR 1.6(a), and to make determinations regarding whether to grant or deny requests for records exempt from mandatory disclosure under the provisions of 5 U.S.C. 552(b). This official is authorized to

(1) Extend the ten-day administrative deadline for reply pursuant to 7 CFR 1.14,

(2) Make discretionary releases pursuant to 7 CFR 1.17(b) of records except from mandatory disclosure, and

(3) Make determinations regarding the charging of fees.

(f) Appeals from denials of request submitted under paragraph (e) of this section shall be submitted in accordance with 7 CFR 1.6(e) to the Chair, Board of Contract Appeals, United States Department of Agriculture, Washington, DC 20250–0600. The Chair shall determine whether to grant or deny the appeal and shall also make all necessary determinations relating to an extension of the twenty-day administrative deadline for reply pursuant to 7 CFR 1.14, discretionary release pursuant to 7 CFR 1.17(b) of records exempt from mandatory disclosure under 5 U.S.C. 552(b), and the charging of appropriate fees.

§ 24.8 Rules of procedure.

The Chair of the Board shall prescribe its Rules of Procedure and publish such Rules in subpart B of this part 24 and may prescribe and so publish amendments from time to time. The Rules of Procedure and any amendments thereto shall be consistent with this subpart.

§ 24.9 Definitions.

Board means the Board of Contract Appeals established under this subpart.

Contract means any agreement entered into by the Department or its agencies or authorized officials with any person having the legal effect of a contract between the Department and such person.

Contracting officer means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto and includes the authorized representative of the contracting officer, acting within the limits of his/her authority.

Days means calendar days. Except as otherwise provided by law, in computing any period of time prescribed by the rules in this part or any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which even the period shall run to the end of the next business day. If mailing is required, the date of the postmark shall be treated as the date action was taken.

Department means the United States Department of Agriculture.

Government attorney means the attorney of the Department designated to handle a particular appeal on behalf of the contracting officer.

Person means any individual, partnership, public or private corporation, association, agency or other legal entity.

Subpart B—Rules of Procedure

§ 24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA.

(a) *Preface to Rules. Time, computation and extensions.* All time limitations specified for various procedural actions are computed as maximums and are not to be fully exhausted if the action described can be accomplished in a lesser period. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time by either party shall be in writing and state good cause for the requested extension. The Board may grant such extensions on good cause shown except that the Board shall not extend the time prescribed under § 24.5 for taking an appeal.

(b) *Ex parte communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members or to ex parte communication concerning the Board's administrative functions or procedures.

Appendix to Subpart B—Rules of Procedure

Index

Rules—Preliminary Procedures

Rule 1. Appeals, How and When Taken

(a) *Notice of Appeal—90 days.* Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy of the notice of appeal shall be furnished to the contracting officer from whose decision the appeal is taken.

(b) *Failure to Issue CO Decision—60 days—$100,000 or less.* Where the contractor has submitted a claim of $100,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not done so, the contractor may file a notice of appeal as provided in paragraph (a) of this Rule 1, citing the failure of the contracting officer to issue a decision.

(c) *Failure to Issue CO Decision—Reasonable Time—More than $100,000.* Where the contractor has submitted a certified claim in excess of $100,000 to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (a) of this Rule 1, citing the failure to issue a decision.

(d) *Stay Pending Final CO Decision.* Upon docketing of appeals filed pursuant to paragraphs (b) or (c) of this Rule 1, the Board may, at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

Rule 2. Notice of Appeal. Contents of

A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the department and agency or bureau involved in the dispute, the decision from which the appeal is taken, and the amount in dispute, if known. The notice of appeal should be signed by the appellant (the contractor making the appeal), or by the appellant's duly authorized representative or attorney. The Complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a Complaint.

Rule 3. Docketing of Appeals

When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. Notice in writing shall be given to the appellant, with a copy of these rules and information on Alternative Dispute Resolution. Notice in writing shall be given also to the contracting officer and to the Office of the General Counsel.

Rule 4. Preparation, Content, Organization, Forwarding, and Status of Appeal File

(a) *Duties of Contracting Officer.* Within 30 days of receipt of a letter from the Board transmitting the Complaint, the contracting officer shall assemble and transmit to the Board through agency channels and appeal file, and shall transmit copies thereof to the appellant and the Government attorney. The appeal file shall consist of all documents pertinent to the appeal, including:

(1) The decision from which the appeal is taken;

(2) The contract, including specifications and pertinent amendments, plans, and drawings;

(3) All correspondence between the parties relevant to the appeal; including the letter or letters of claim in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered relevant to the appeal.

(b) *Duties of the Appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall transmit to the Board any documents not contained therein which the appellant considers relevant to the appeal, and shall transmit copies of such documents to the Government attorney and the contracting officer.

(c) *Organization of Appeal File.* Documents in the appeal file may be originals or legible facsimiles or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthy Documents.* Upon request by either party, the Board may waive the requirement to furnish to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when inclusion would be burdensome. At the time a party files with the Board a document as to which such a waiver has been granted such party shall notify the other party that the document or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of Documents in Appeal File.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object, for reasons stated, to consideration of a particular document or documents reasonably in advance of hearing, or if there is no hearing, of settling the record. If such objection is made the Board shall remove the document or documents from the appeal file and permit the party offering the document to move its admission as evidence either prior to hearing or prior to closing the record if there is no hearing, in accordance with Rules 13 and 20.

(f) *Dispensing with Appeal File Requirements.* Notwithstanding the foregoing, the filing of the Rule 4 (a) and (b) documents may be dispensed with by the Board either upon request of the appellant in the notice of appeal or thereafter upon stipulation of the parties.

Rule 5. Dismissal for Lack of Jurisdiction

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may defer its decision on the motion pending hearing on both the merits and the motion. The Board shall have the right to any time and on its own initiative to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

Rule 6. Pleadings

(a) *Appellant—Complaint.* Except as provided in Rule 12.2(b) and Rule 12.3(b), within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a Complaint setting forth simple, concise and direct statements of each of its claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, to the extent known. This pleading shall fulfill the generally recognized requirements of a Complaint, although no

particular form is required. Upon receipt of the Complaint, the Board shall serve a copy of it upon the Government and the contracting officer. Should the Complaint not be filed within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth its Complaint and the Government shall be so notified.

(b) *Government—Answer.* Within 30 days from receipt of the Complaint, or the aforesaid notice from the Board, the Government shall prepare and file with the Board an original and one copy of an Answer thereto. The Answer shall set forth simple, concise, and direct statements of Government's defenses to each claim asserted by appellant, including any affirmative defenses available, and shall be served on the appellant and the contracting officer. Should the Answer not be filed within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

Rule 7. Amendments of Pleadings or Record

The Board upon its own initiative or upon application by a party may order a party to make a more definite statement of the Complaint or Answer, or to reply to an Answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet such evidence.

Rule 8. Hearing Election

After filing of the Government's Answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in Rules 17 through 25, or whether it elects to submit its case on the record without a hearing, as prescribed in Rule 11.

Rule 9. Prehearing Briefs

Based on an examination of the pleadings, and its determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. If the Board does not require prehearing briefs either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

Rule 10. Prehearing or Presubmission Conference

(a) *Conference.* Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Rules 17 through 25, the Board may upon its own initiative, or upon the application of either party, arrange a telephone conference or call upon the parties to appear before an Administrative Judge or examiner of the Board of a conference to consider:

(1) Simplification, clarification, or severing of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements and rulings on admissibility of documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(3) Agreements and rulings to facilitate discovery;

(4) Limitation of the number of expert witnesses, or avoidance of similar cumulative evidence;

(5) The possibility of agreement disposing of any or all of the issues in dispute; and

(6) Such other matters as may aid in the disposition of the appeal.

(b) *Written Results of Conference.* The Administrative Judge or examiner of the Board shall make such rulings and orders as may be appropriate to achieve settlement by agreement of the parties or to aid in the disposition of the appeal. The results of pretrial conferences, including any rulings and orders, shall be reduced to writing by the Administrative Judge or examiner and this writing shall thereafter constitute a part of the record.

Rule 11. Submission Without a Hearing

Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not receive the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answer to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with Rule 23.

Rule 12. Optional SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures

Notwithstanding any other provisions of these Rules of Procedure, the SMALL CLAIMS (EXPEDITED) and ACCELERATED procedures shall be available solely at the election of the appellant.

Rule 12.1. Elections to Utilize SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures

(a) *SMALL CLAIMS (EXPEDITED)—$50,000 or less.* In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under a SMALL CLAIMS (EXPEDITED) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election. The details of this procedure appear in Rule 12.2.

(b) *ACCELERATED—$100,000 or less.* In appeals where the amount in dispute is $100,000 or less, the appellant may elect to have the appeal processed under an ACCELERATED procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election. The details of this procedure appear in Rule 12.3.

(c) *Time for Election.* The appellant's election of either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure may be made by written notice within 60 days after receipt of notice of docketing the appeal unless such period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

(d) *Board Determines Amount in Dispute.* In deciding whether the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure is applicable to a given appeal, the Board shall determine the amount in dispute.

Rule 12.2. The SMALL CLAIMS (EXPEDITED) Procedure

(a) *Time Periods for Proceedings.* In cases proceeding under the SMALL CLAIMS (EXPEDITED) procedure, the following time periods shall apply: (1) Within ten days from the Government's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the SMALL CLAIMS (EXPEDITED) procedure, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; remaining documents required under Rule 4 shall be submitted in accordance with times specified in that rule unless the Board otherwise directs;

(2) Within 15 days after the Board has acknowledged receipt of appellant's notice of election, the assigned Administrative Judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties: (i) Identify and simplify the issues; (ii) establish a simplified procedure appropriate to the particular appeal involved; (iii) determine whether the appellant wants a hearing, and if so, fix a time and place therefore; (iv) require the Government to furnish all the additional documents relevant to the appeal, and (v) establish an expedited schedule for resolution of the appeal.

(b) *Decisions—120 Days).* Pleadings, discovery and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the date scheduled, or if no hearing is scheduled, to close the record on a date that will allow decisions within the 120-day limit. The Board, in its discretion, may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 120-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the

decision after closing the record and the filing of briefs, if any.

(c) *Form of Decisions.* Written decision by the Board in cases processed under the SMALL CLAIMS (EXPEDITED) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may, in the Judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

(d) *No Precedent—Not Appealable.* A decision against the Government or the contractor shall have no value as precedent, and in the absence of fraud shall be final and conclusive and may not be appealed or set aside.

Rule 12.3. The ACCELERATED Procedure

(a) *Time Periods for Proceedings.* In cases proceeding under the ACCELERATED procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed elsewhere in these Rules, including Rule 4, as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the ACCELERATED procedure, any may reserve 30 days for preparation of the decision.

(b) *Decisions—180 Days.* Pleadings, discovery and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the dates scheduled, or if no hearing is scheduled, to close the record on a date that will allow decision within the 180-day limit. The Board, in its discretion, may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 180-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record and the filing of briefs, if any.

(c) *Form of Decisions.* Written decisions by the Board in cases processed under the ACCELERATED procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chair or a Vice Chair or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $50,000 or less as to which the ACCELERATED procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

Rule 12.4. Motions for Reconsideration in Rule 12 Cases

Motions for Reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure need not be decided within the original 120-day or 180-day limit, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this Rule.

Rule 13. Settling the Record

(a) *Components of the Record.* The record upon which the Board's decision will be rendered consists of the documents furnished under Rules 4 and 12, to the extent admitted in evidence, and the following items, if any: pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearings exhibits, posthearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will, at all reasonable times, be available for inspection by the parties at the office of the Board.

(b) *Closing Dates for Inclusion of Material.* Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) *Weight Given to Evidence.* The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 14. Discovery—Depositions

(a) *General Policy and Protective Orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When Depositions Permitted.* After an appeal has been docketed and Complaint filed, the parties may mutually agree, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on Depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as Evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the deponent given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions to supplement the record.

(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

(f) *Subpoenas.* Where appropriate, a party may request the issuance of a subpoena under the provisions of Rule 21.

Rule 15. Interrogatories to Parties, Admission of Facts, and Production and Inspection of Documents

After an appeal has been docketed and Complaint filed with the Board, a party may serve on the other party: (a) Written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 30 days; (b) a request for the admission of specified facts and the authenticity of any documents, to be answered or objected to within 30 days after service (the factual statements and the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request); and (c) a request for the production, inspection and copying of any documents or objects not privileged, which reasonably may lead to the discovery of admissible evidence. Any discovery engaged in under this Rule shall be subject to the provisions of Rule 14(a) with respect to general policy and protective orders and of Rule 33 with respect to sanctions.

Rule 16. Service of Papers Other Than Subpoenas

(a) *Service of Papers.* Papers shall be served personally or by certified mail, return receipt requested, addressed to the Board or to the party upon whom service is to be made. Parties shall furnish three copies of Complaints directly to the Board. Parties shall furnish two copies of Answers and briefs directly with the Board, with one copy being served on the opposing party and the Board's copies containing a notation to that effect. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board that a copy has been so furnished. Subpoenas shall be served as provided in Rule 21.

(b) *Facsimle Transmissions.* Facsimile transmissions to the Board and the parties are permitted. Parties are expected to submit their facsimile machine numbers with their

filings. The Board's facsimile number is (202) 720–3059. The filing of a document by facsimile transmission occurs upon receipt by the Board of the entire printed submission. Parties are specifically cautioned that deadlines for the filing of appeals will not be extended merely because the Board's facsimile machine is busy or otherwise unavailable at the time the filing is due. A document submitted by facsimile should be followed by a copy of the document sent by U.S. Postal Service or other delivery method.

Hearings

Rule 17. Where and When Held

Hearings will be held at such places determined by the Board to best serve the interests of the parties and the Board. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, Rule 12 requirements, and other pertinent factors. On request on motion by either party and for good cause, the Board may, in its discretion, adjust the date of a hearing.

Rule 18. Notice of Hearings

The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduled hearings, the Board will consider the desires of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay.

Rule 19. Unexcused Absence of a Party

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

Rule 20. Hearings: Nature; Examination of Witnesses

(a) *Nature of Hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and the Government may offer such evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(b) *Examination of Witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the presiding Administrative Judge or examiner shall otherwise order. If the testimony of a witness is not given under oath, the Board may advise the witness that his statements may be subject to the provisions of 18 U.S.C. 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

Rule 21. Subpoenas for CDA Appeals

(a) *General.* For appeals under § 24.4(a), upon written request of either party filed with the recorder, or on the initiative of the Administrative Judge to whom a case is assigned, or who is otherwise designated by the Chair, such Administrative Judge may issue a subpoena requiring:

(1) Testimony at a deposition—the deposing of a witness in the city or county where such witness resides or is employed or transacts business in person, or at another location convenient for such witness that is specifically determined by the Board;

(2) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) Production of books and papers—in addition to (1) or (2), the production by the witness at the deposition or hearing of books and papers designated in the subpoena.

(b) *Voluntary Cooperation.* Each party is expected (1) to cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena, and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things whenever possible.

(c) *Requests for Subpoenas.*

(1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

In its discretion the Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books and papers sought.

(d) *Requests to Quash or Modify.* Upon written request by the person subpoenaed or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form; Issuance.*

(1) Every subpoena shall state the name of the Board and the title of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and papers at a time and place therein specified. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may, in the Judge's discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service.*

(1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) *Contumacy or Refusal to Obey a Subpoena.* In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

Rule 21.1. Subpoenas for Non-CDA Appeals

For appeals under §§ 24.4(b), (c), and (d), the Chair has authority by delegation from the Secretary to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 U.S.C. 304.

Rule 22. Copies of Papers

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

Rule 23. Posthearing Briefs

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding Administrative Judge or examiner at the conclusion of the hearing.

Rule 24. Transcript of Proceedings

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Waiver of transcript may be especially suitable for hearings under Rule 12.2. Transcripts or copies of the proceedings shall be made available by the Board to the Government attorney. Appellant may order transcripts of the proceedings from the contract reporter at the hearing.

Rule 25. Withdrawal of Exhibits

After a decision has become final, the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Representation

Rule 26. The Appellant

An individual appellant may appear before the Board in person; a corporation by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, the District of Columbia, or in a foreign country. An attorney representing an appellant shall file a written notice of appearance with the Board.

Rule 27. The Government

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or appellant's attorney in the form specified by the Board from time to time. Whenever appellant and the Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal. However, if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

Miscellaneous

Rule 28. Decisions

Decisions of the Board will be made in writing and authenticated copies of the decision will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to be held confidential and not cited as precedents) shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 13.

Rule 29. Motion for Reconsideration

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Rule 30. Dismissal Without Prejudice

In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause for suspension has been removed. Unless either party or the Board acts within three years, or such shorter time as ordered by the Board, to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

Rule 31. Dismissal for Failure to Prosecute or Defend

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices of correspondence from the Board, comply with orders of the Board or otherwise indicates an intention not to continue the prosecution of defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 33. If good cause is not shown, the Board may take appropriate action.

Rule 32. Remand From Court

Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and tie limitations permit, such orders shall conform to these rules.

Rule 33. Sanctions

If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Rule 34. Alternative Dispute Resolution

Upon joint motion or with the consent of both parties, the Board may permit the use of methods of Alternative Dispute Resolution (ADR). The Board shall notify parties of the availability of ADR methods by transmitting information with its notice of docketing (Rule 3).

Rule 35. Application for Attorneys' Fees and Expenses Under the Equal Access to Justice Act

The Equal Access to Justice Act (EAJA), 5 U.S.C. 504, allows payment of attorneys' fees and expenses to certain prevailing parties in administrative adjudications with the Government unless the Government's position was substantially justified. Rules governing applications for fees and expenses under EAJA can be found in 7 CFR 1.180 *et seq.*

Done in Washington, D.C., on October 30, 1995.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 95–27501 Filed 11–6–95; 8:45 a.m.]

BILLING CODE 3410–25–M

Federal Register

Tuesday
November 7, 1995

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation; Employee Stock Ownership Plans; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 92–24]

RIN 9000–AG53

Federal Acquisition Regulation; Employee Stock Ownership Plans

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes to the cost principles in the Federal Acquisition Regulation (FAR) to address employee stock ownership plans (ESOPs). The purpose is to ensure uniform treatment on the allowability of costs of all ESOP's irrespective of whether the ESOP is structured as a pension plan or as deferred compensation, including making the interest costs of leveraged ESOPs expressly unallowable. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before January 8, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Washington, DC 20405.

Please cite FAR case 92–24 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 92–24.

SUPPLEMENTARY INFORMATION:

A. Background

By moving the current language on ESOP's from FAR 31.205–6(j)(8) to a new 31.205–6(p), the proposed rule recognizes that ESOPs may be governed by either the cost principle at 31.205–6(j), Pension plans, or 31.205–6(k), deferred compensation. The rule also makes the interest costs on borrowings of leveraged ESOP's expressely unallowable in accordance with FAR 31.205–20, thus placing leveraged ESOP's on the same basis as non-leveraged ESOP's; limits the allowability of noncash contributions to the Employee Stock Ownership Trust (ESOT) to the fair market value on the date that the contractor effectively loses control of the asset to the ESOT or pledges the asset to lender as loan collateral; and proposes a ceiling of 15 percent on payroll-related contributions, which is in consonance with limits on similar supplemental retirement plans under the Internal Revenue Code.

B. Regulatory Flexibility Act

This proposed rule broadens a condition of allowability of costs upon contractors who wish to be reimbursed under Government contracts. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, applies, but the rule is not expected to have a significant economic impact on a substantial number of small entities because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR case 92–24 in correspondence.

C. Paperwork Reduction Act

This proposed rule is a broader application of an existing cost principle but does not affect how contractors account for costs of ESOPs. The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: October 26, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 31.205–6 is amended by removing paragraph (j)(8) and adding paragraph (p) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(p) *Employee stock ownership plans (ESOPs).* An ESOP is an individual stock bonus plan designed specifically to invest in the stock of the employer corporation. The contractor's contributions to a trust of an ESOP may be in the form of cash, stock, or noncash assets. In addition to specifically applicable pension and deferred compensation cost principles in paragraphs (j) and (k), respectively, of this subsection, ESOP costs are allowable subject to the following provisions:

(1) Any portion of an ESOP cost assigned to a year which is not paid to the Employee Stock Ownership Trust (ESOT) by the time set for filing of the Federal income tax return for that year, or any extension thereof, shall not be allowable.

(2) The contractor shall provide the contracting officer or designated representative access to the books and records of the ESOT and to any independent analysis of the fair market value of the stock in the ESOT made for purposes of the ESOP. This includes analyses made either for the ESOT or for the contractor.

(3) The contractor shall furnish evidence satisfactory to the contracting officer demonstrating that acquisitions of stock or noncash assets by the ESOT are made at the stock's or noncash asset's fair market value. Any amount in excess of the fair market value is unallowable.

(i) For purposes of applying the allowability criteria under paragraph (p)(6) of this subsection, the fair market value of the stock or noncash assets shall be determined as of the close of business on the next business day after the transaction date.

(ii) For contractor contributions of stock or noncash assets, the transaction date is the date on which the contractor sells, assigns, or otherwise transfers control of the stock or noncash asset to the ESOT or to a financial institution.

(4) When the stock used by the ESOT to satisfy the plan requirements of an ESOP is not publicly traded or the contracting officer determines that the stock was not publicly traded in sufficient quantities to establish the fair market value, the fair market value of the stock in paragraph (p)(3) of this

subsection shall be determined on a case-by-case basis by the contracting officer, taking into consideration the guidelines for valuation used by the IRS.

There is no presumption of allowability for the valuations claimed by the contractor for such stock. Any amount determined to be attributable to excess stock valuations is unallowable.

(5) Contractor contributions to an ESOT are unallowable to the extent they are used by the ESOT to pay interest on borrowings, however represented.

(6) the allowable amount of ESOP cost for a given year shall not exceed the lesser of—

(i) The fair market value, as determined in paragraphs (p)(3) and (p)(4) of this subsection, of stock shares credited to the accounts of individual ESOP participants during that year reduced by—

(A) The fair market value of any forfeitures that are reallocated to plan participants; and

(B) Dividends applicable to shares credited to plan participants; or

(ii) 15 percent of the salaries and wages of the employees participating in the ESOP for that year.

(7) In addition to paragraph (p)(6) of this subsection, the costs to administer an ESOP are allowable, if reasonable in amount. These allowable costs do not include costs which are otherwise unallowable under part 31.

(8) Any increased costs resulting from conversion of the ESOP from a pension to a non-pension plan or from a non-pension to a pension plan are unallowable.

[FR Doc. 95–27554 Filed 11–6–95; 8:45 am]

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Federal Register

Tuesday
November 7, 1995

Part V

The President

Proclamation 6848—Death of Yitzhak Rabin

Federal Register
Vol. 60, No. 215
Tuesday, November 7, 1995

Presidential Documents

Title 3—

The President

Proclamation 6848 of November 4, 1995

Death of Yitzhak Rabin

By the President of the United States of America

A Proclamation

Today a senseless act of violence has robbed the United States of a close friend and robbed the world of a statesman and courageous champion of peace.

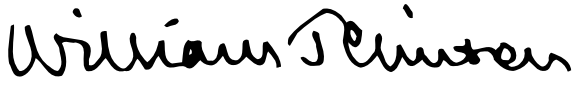
Yitzhak Rabin was a brave man who defended his country for half a century and whose vision and tenacity brought the world closer to peace.

He was a man of hope, a man of wisdom, a man who sought to improve the lives of all those he touched.

The peace process that he began will be his legacy. The people of the United States and the peace-loving people of the world are determined that the peace process will go forward.

As a mark of respect for the memory of Yitzhak Rabin and America's support for peace in the Middle East, I hereby order that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until his interment. I also direct that the flag shall be flown at half-staff for the same length of time at all United States Embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of November, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 716/P.L. 104–43

Fisheries Act of 1995 (Nov. 3, 1995; 109 Stat. 366)

H.R. 1026/P.L. 104–44

To designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the ''Winfield Scott Stratton Post Office''. (Nov. 3, 1995; 109 Stat. 397)

Last List November 6, 1995