2–21–96
Vol. 61 No. 35
Pages 6487–6760

Wednesday
February 21, 1996

Federal Register

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WASHINGTON, DC

[Two Sessions]

WHEN:	February 21, 1996 at 9:00 am and March 12, 1996 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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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 363

RIN 3064–AA83

Annual Independent Audits and Reporting Requirements

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

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulations concerning annual independent audits and reporting requirements. Section 314 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) amended sections 36(i) and 36(g)(2) of the Federal Deposit Insurance Act (FDI Act). Section 36 of the FDI Act is generally intended to facilitate early identification of problems in financial management at larger insured depository institutions through annual independent audits, assessments of the effectiveness of internal controls and of compliance with designated laws and regulations, and more stringent reporting requirements. Section 314(a) provides relief from certain duplicative reporting under section 36 of the FDI Act for sound, well managed insured depository institutions with over $9 billion in total assets which are subsidiaries of multibank holding companies. Section 314(b) requires the Corporation to notify a large insured depository institution in writing if it decides a review by an independent public accountant of such an institution's quarterly financial reports is required. This regulation governs annual independent audits and implements section 36 of the FDI Act. This amendment conforms the regulations to the amended statute.

In addition, the FDIC is making several technical amendments to the Guidelines and Interpretations (Guidelines) that were published as an appendix to the annual independent audit regulations. The FDIC also is amending Schedule A to the appendix, ''Agreed Upon Procedures for Determining Compliance with Designated Laws'', to implement recent amendments to the federal regulations concerning loans to insiders, improve the format of the procedures, streamline the specific procedures, and eliminate ambiguities. These amendments reflect the experience of the Corporation, financial institutions, and accountants using the existing procedures during the past two years.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Doris L. Marsh, Examination Specialist, Division of Supervision (202) 898–8905, FDIC, 550 17th Street NW., Washington, DC 20429, or Sandra Comenetz, Counsel, Legal Division, (202) 898–3582, FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The collection of information contained in this amendment has been reviewed and approved by the Office of Management and Budget under control number 3064–0113, pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This information collection is mandated by section 36 of the FDI Act (12 U.S.C. 1831m), which was added by section 112 of FDICIA (Pub. L., 102–242, 105 Stat. 2242).

The total estimated reporting burden for the collection under Part 363 is:

Number of Respondents: 450.

Number of Responses per Respondent: 3.19.

Total Annual Responses: 1,435.5.

Hours per Response: 40.38.

Total Annual Burden Hours: 57,970.

The changes to this collection of information have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act. Comments on the accuracy of the burden estimate, and suggestions for reducing the burden, should be directed to the Office of Management and Budget, Paperwork Reduction Project 3064–0113, Washington, D.C. 20503, with copies of such comments to Steven F. Hanft, Office of the Executive Secretary, Room F–400, 550 17th St. N.W., Washington, D.C. 20429.

II. Regulatory Flexibility Act

The rule expressly exempts insured depository institutions having assets of less than $500 million, and, for that reason, is inapplicable to small entities. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the rule would not have a significant impact on a substantial number of small entities.

III. Background

Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) added section 36, ''Independent Annual Audits of Insured Depository Institutions'', to the FDI Act (12 U.S.C. 1831m). Section 36 requires the FDIC, in consultation with the appropriate federal banking agencies, to promulgate regulations requiring each insured depository institution over a certain asset size (covered institution) to have an annual independent audit of its financial statements performed in accordance with generally accepted auditing standards and section 37 of the FDI Act (12 U.S.C. 1831n), and to provide a management report and an independent public accountant's attestation concerning both the effectiveness of the institution's internal controls for financial reporting and its compliance with designated safety and soundness laws. Section 36 also requires each covered institution to have an independent audit committee. The audit committee of each large covered institution (total assets exceeding $3 billion) must meet certain additional requirements.

Section 36 also requires the FDIC, in consultation with the other federal banking agencies, to designate laws and regulations concerning safety and soundness. This section requires the institution's independent public accountant to perform procedures agreed upon by the Corporation to determine an institution's compliance with such designated laws and regulations. The laws and regulations selected by the Corporation (Designated Laws) are the federal laws and regulations concerning loans to insiders and the federal and state laws and regulations concerning dividend restrictions.

In June 1993, the FDIC published 12 CFR Part 363 (58 FR 31332, June 2, 1993) to implement the provisions of

section 36 of the FDI Act. Under Part 363, the requirements of section 36 apply to each insured depository institution with $500 million or more in total assets at the beginning of any fiscal year that begins after December 31, 1992. Part 363 also includes Guidelines and Interpretations (Appendix A to Part 363), which are intended to assist institutions and independent public accountants in understanding and complying with Section 36 and Part 363. Appendix A to Schedule A contains the agreed-upon procedures that must be performed by an institution's independent public accountant in order to permit the accountant to report on the extent of compliance with the Designated Laws as required by Section 36(e)(1) and (2).

Section 314 of RCDRIA amends sections 36(i) and 36(g)(2) of the FDI Act (12 U.S.C. 1831m(i) and (g)(2)). The purpose of section 314(a) is to provide relief from certain duplicative reporting under section 36 of the FDI Act for sound, well managed insured depository institutions with over $9 billion in total assets which are subsidiaries of multibank holding companies. Section 314(b) requires the FDIC to notify a large insured depository institution in writing if the FDIC decides to require a review by an independent public accountant of such institution's quarterly financial reports.

Section 36(g)(2) of the FDI Act authorizes the FDIC to require independent public accountants for ''large institutions'' to review such institutions' quarterly financial reports. When the FDIC adopted Part 363, it elected not to exercise its authority in this area for reasons of cost and limited expected benefits, preferring instead to request such reviews on a case-by-case basis. The FDIC continues to believe that this is appropriate. Should the FDIC decide to request an independent public accountant's review of the quarterly financial statements of a large insured depository institution, it will make the request in writing. The regulation is being amended to reflect section 314(a); no regulatory action is needed for section 314(b) which speaks for itself.

In addition, the regulation is being amended to reflect the current provisions of federal regulations concerning loans to insiders (Federal Reserve Board Regulation O, 12 CFR Part 215), which are included in one of the Designated Laws, but were amended themselves during 1994.

Lastly, Section 303 of RCDRIA requires the each federal banking agency to streamline and modify its regulations and policies in order to improve efficiency and reduce unnecessary burden. The FDIC believes that Part 363 and its final amendment are consistent with the requirements of section 303.

IV. Proposed Rule

The FDIC sought public comment on proposed amendments to Part 363 and the Guidelines in February 1995 (60 FR 8583, February 15, 1995). The FDIC proposed to amend certain paragraphs of 12 CFR Part 363 to conform to the amended statute. The FDIC also proposed to make technical and clarifying changes to the Guidelines in Appendix A.

In addition, initial experience with Part 363 indicated that certain clarifications of the specific procedures in Schedule A to Appendix A of the Guidelines would make them more efficient and less burdensome. The FDIC therefore proposed amending Schedule A to Appendix A—Agreed Upon Procedures for Determining Compliance with Designated Laws, to eliminate ambiguities, improve the format of the procedures, streamline the specific procedures, and reflect the recent amendments to the federal regulations concerning loans to insiders (12 CFR Part 215). The proposal reflected the experience of the Corporation, institutions, and accountants with the existing procedures during the period since their adoption in June 1993.

A. Proposed Amendments to the Rule

Section 363.1—Scope. To make § 363.1(b) consistent with section 314(a)(1) of RCDRIA, the phrase ''but less than $9 billion'' was proposed to be deleted from the provisions of the regulation describing the institutions eligible to report using the holding company exception set forth in section 36(i). Section 36 originally required each institution with total assets exceeding $9 billion to have its own audit committee and to file a management report and attestations by the independent public accountant on internal controls and compliance with designated laws and regulations. This has been particularly burdensome for many large institutions which are subsidiaries of multibank holding companies because they have had to have their own separate audit committee, whose function was often duplicative of the holding company audit committee. In addition, the holding company typically has had to file two sets of management reports and attestations by the independent public accountant: one on the institution which exceeded $9 billion in total assets and another on the holding company group in order to cover the smaller institutions also subject to Part 363. In many cases, these reports were duplicative since the large institution was the dominant institution in the holding company group. Section 314(a) eliminates this duplication by permitting sound, well-managed insured depository institutions with over $9 billion in total assets which are subsidiaries of multibank holding companies to use the holding company audit committee and to submit reports as part of the holding company group.

The FDIC also proposed to add a paragraph, consistent with section 314(a)(3) of RCDRIA, to explain that the appropriate federal banking agency may require a large institution subsidiary of a holding company to have its own audit committee and report separately if it determines that the institution's use of the holding company exception in section 36(i) would create a significant risk to the affected deposit insurance fund.

Section 363.4—Filing and notice requirements. It was proposed to correct § 363.4(b) so that it would be clear that only the annual report in § 363.4(a)(1) is available for public inspection and that the attestation by the independent public accountant concerning compliance with Designated Laws is not a document available to the public.

Section 363.5—Audit committees. A new sentence was proposed to be added to make the Rule consistent with section 314(a) of RCDRIA, which prohibits any large customers of a large insured depository institution from being members of the audit committee of the institution's holding company if the institution relies on the audit committee of the holding company to comply with this rule.

B. Amendments to Appendix A to Part 363—Guidelines and Interpretations

4. Comparable Services and Functions—Guideline 4(c) under ''Scope of Rule'' was proposed to be amended to replace the phrase ''all subsidiary institutions'' with the phrase ''those subsidiary institutions'' to clarify that only information pertaining to covered institutions, not all subsidiaries of a holding company, must be included in reports filed under Part 363.

9. Safeguarding of Assets. The last two sentences of Guideline 9 and the footnote to the Guideline, which explained how the independent public accountant should treat the lack of criteria against which ''safeguarding of assets'' may be judged for financial reporting, were proposed to be revised. The FDIC's concern over the lack of criteria, which existed at the time of the adoption of Part 363, was eliminated in May 1994, as a result of the issuance by

Committee of Sponsoring Organizations (COSO) of the Treadway Commission of an Addendum to the ''*Reporting to External Parties*'' volume of COSO's September 1992 *Internal Control—Integrated Framework* (COSO Report). The Addendum expanded the discussion of the scope of a management report on internal controls to address additional controls pertaining to safeguarding of assets. The FDIC proposed to replace the last two sentences of the Guideline with specific references to types of safeguarding that should be covered by management and the independent public accountant in their reports.

10. Standards for Internal Controls. In the footnote to Guideline 10, the Addendum to the COSO Report was proposed to be added to the list of sources of information on safeguarding of assets and standards for internal controls for financial reporting that may be considered for use by institutions. In addition, it was proposed that the American Institute of Certified Public Accountants' (AICPA) Statement on Auditing Standards No. 55 (SAS 55), ''Consideration of the Internal Control Structure in a Financial Statement Audit,'' should replace AICPA Statement on Auditing Standards No. 30 (SAS 30), ''Reporting on Internal Accounting Control,'' in the footnote to Guideline 10.

15. Peer Reviews—Guideline 15 requires each independent accountant to be enrolled in or have received a peer review that meets certain guidelines. These guidelines state that the peer review must be consistent with American Institute of Certified Public Accountants (AICPA) standards. Since the AICPA combined the two of its three standards for performing and reporting on peer reviews, those for Private Companies Practice Section and for its Quality Reviews into one standard on Peer Reviews, the footnote to Guideline 15 was proposed to be amended to identify the two remaining acceptable AICPA standards: Standards for Performing and Reporting on Peer Reviews, contained in Volume 2 of the AICPA's *Professional Standards,* and Standards for Performing and Reporting on Peer Reviews, codified in the *SEC Practice Section Reference Manual.*

24. Relief from Filing Deadlines—This Guideline explains the circumstances in which an institution may request an extension of a filing deadline, but makes reference to section 36 in doing so. The phrase referring to section 36 of the FDI Act in Guideline 24 was proposed to be deleted since section 36 does not grant authority to the FDIC to provide relief to, or exempt institutions from, provisions in the statute.

31. Holding Company Audit Committees—The proposal sought to revise Guideline 31 because it had been widely misunderstood. The existing Guideline provides that members of a holding company's independent audit committee may serve as the audit committee of *any* subsidiary institution if they are otherwise independent of the subsidiary's management. However, this was not intended to apply where an insured depository institution subsidiary has $5 billion or more in total assets, and a 3, 4, or 5 composite CAMEL rating and is not eligible to use the holding company exception in section 36(i). Such a subsidiary must have its own audit committee separate from the audit committee of the holding company. Guideline 31 was proposed to be amended to clarify this point.

In addition, existing Guideline 31 did not make it clear that when an institution eligible to use the holding company exception relies on a holding company audit committee in order to comply with this rule, the holding company audit committee must meet the requirements for the audit committee of the largest subsidiary institution. To be eligible to use the holding company exception, an insured depository institution subsidiary must have either less than $5 billion in total assets, or $5 billion or more in total assets and a 1 or 2 composite CAMEL rating, and its holding company must perform services and functions comparable to those required by the statute. Accordingly, it was proposed to amend Guideline 31 to clearly indicate that when an eligible institution chooses to rely on the holding company's audit committee, the members of the audit committee of the holding company are expected to meet the membership requirements of the largest subsidiary depository institution and may perform the duties of the audit committee for a subsidiary institution without becoming directors of the institution.

32. Duties—The second sentence of Guideline 32 was proposed to be amended to complete the citation to certain sections of Part 363. As proposed, the sentence would state that the duties of a covered institution's audit committee should be appropriate to the size of the institution and the complexity of its operations, and should include reviewing with management and the independent public accountant the basis for the reports issued under §§ 363.2(a) and (b) and 363.3(a) and (b) of the Rule. At present, the citation refers only to § 363.2(b) of the Rule.

C. Amendments to Schedule A to Appendix A—Agreed Upon Procedures for Determining Compliance With Designated Laws

The agreed upon procedures in Schedule A were proposed to be amended to clarify the numbering system, make the procedures consistent with amendments to insider loan regulations, and adopt suggestions of institutions and accountants to make the performance of the agreed upon procedures more efficient and less burdensome.

Proposed formatting changes included renumbering the paragraphs and adding more subject titles. The procedures applicable to insider extensions of credit granted, insider extensions of credit outstanding, aggregate insider extensions of credit outstanding, overdrafts, limitations on extensions of credit to executive officers, and reports on indebtedness to correspondent banks were proposed to be placed in separate subsections of the procedures for more efficient performance of the procedures and ease of reference. The amendments to the Federal Reserve Board's Regulation O (12 CFR Part 215), the federal rules governing insider loans, necessitated numerous citation changes.

As proposed, accountants would be permitted to use the most recently completed Reports of Condition and Income (Call Report) or Thrift Financial Report (TFR) when the procedures are being performed rather than requiring the use of only the year-end Call Report or TFR. The scope of the required reading of board and committee minutes and reports under the Securities Exchange Act of 1934 was proposed to also be more clearly defined. Inadvertent overdrafts in an aggregate amount of $1,000 or less, which are exempt from Regulation O proscriptions (see 12 CFR 215.4(e)), were proposed to no longer be separately tracked by institutions, listed when certain representations are made by management, or tested by the accountant. Where accountants had previously been expected to compare insider transactions to transactions with nonaffiliated persons, the comparison period within which nonaffiliated transactions can take place was proposed to be expanded from four to eight weeks. In addition, where no maximum number of transactions (to which comparisons must be made) had previously been included, comparisons were proposed to be limited to a maximum of three. An alternative procedure that permitted the terms of the insider transaction to be compared

to existing lending policies also was proposed.

To ensure that some tests were performed on each category of extension of credit, including overdrafts and loans from correspondent banks, the existing agreed-upon procedures directed accountants to obtain three separate samples. Based on suggestions received for improving the procedures covering extensions granted and outstanding during the year, the proposal had accountants focus the testing on a sample of insiders rather than a sample of transactions.

Under the present guidelines, an institution may choose to have some of the required testing in the agreed-upon procedures performed by its internal auditor with less testing performed by its independent public accountant. However, in some situations in multibank holding companies, the internal auditor may be required to perform more testing than was required of the external auditor. When the holding company exception set forth in section 36(i) is used at a holding company with more than one covered subsidiary institution, the FDIC proposed to extend to internal auditors the same testing requirements that have been applicable to independent public accountants. Specifically, this would eliminate the existing requirement that internal auditors perform the procedures on each covered subsidiary every year. Thus, the testing of samples from all covered subsidiaries every two or three years that has been required of independent public accountants was proposed to also apply to internal auditors. It was further proposed that the lead institution or a few very large covered subsidiary institutions be included every year in the testing by both accountants and internal auditors. However, in response to the proposed reduction in testing requirements applicable to internal auditors, the FDIC proposed to increase the size of the samples required to be tested by the independent public accountant from the present 20 percent to 30 percent of the size of the samples used by the internal auditor. This change was not expected to generally result in any increase in the number of transactions tested by the independent public accountant for reports on holding companies with two or more covered subsidiary institutions.

V. Discussion of Final Rule and Public Comments

The FDIC received 16 comment letters concerning the proposed amendments. Ten of the comment letters were from large banks, thrifts, and holding companies; three from banking trade organizations; two from accounting and auditing organizations; and one from an accounting firm.

The letters supported the addition to the rule of the changes mandated by the Riegle Community Development and Regulatory Improvement Act of 1994. They also were generally supportive of the proposal's goal to make the agreed-upon procedures in Schedule A to Appendix A less burdensome. However, many commenters stated their belief that Section 36 and its implementing rule were unnecessary and costly to comply with. Many commenters urged that the sections of the statute concerning compliance with safety and soundness laws and regulations, including both the management report and accountant's attestation, be eliminated. Nevertheless, barring any Congressional action in this regard, the commenters supported the Corporation's efforts to revise and reformat the agreed-upon procedures in Schedule A to Appendix A.

Regarding the specific changes to the procedures, commenters approved not having to list smaller overdrafts in the insiders' extensions list. Permitting internal auditors to do the same amount of testing on holding companies as external auditors was also supported. Commenters also agreed with the amendment to § 363.4(b) to clarify that the attestation by the independent public accountant concerning compliance with Designated Laws is not a document available to the public.

One respondent recommended that the FDIC limit the time in which it may require the review of a large institution's quarterly financial statements to no later than 30 days after the end of each quarter. This suggestion was not adopted because the FDIC anticipates that any request would be made prior to that time. Moreover, since this authority has never been used, the need for a time limit has not been established.

As discussed in the following paragraphs, the FDIC has considered respondents' comments concerning the specific aspects of the proposed amendments to Part 363, Appendix A to Part 363, and Schedule A to Appendix A.

A. Amendments to Part 363

One commenter suggested that the FDIC define ''large institution'' for purposes of section 363.5, Audit committees, as institutions with $5 billion or more in total assets. The FDIC previously defined that term to mean any insured depository institution with total assets exceeding $3 billion when it adopted Part 363 in 1993 and is not convinced the definition should be changed. Another commenter recommended that when dealing with reporting by a holding company, the term ''large customer'' in section 363.5 should be compared to the assets of an entire holding company, not any single institution. However, section 314(a)(2) of the RCDRIA precludes such a change because it provides that ''the audit committee of the holding company of [a large] institution shall not include any large customers of the *institution*.'' [Emphasis added.]

B. Amendments to Appendix A to Part 363—Guidelines and Interpretations

The amendments to Appendix A that are discussed below are identified by the number and caption of the revised Guideline.

4. *Comparable Services and Functions.* Two commenters suggested that the rule be revised to require that when covering a holding company, the accountant's attestation on the adequacy of internal controls over financial reporting cover all subsidiaries of that holding company, including subsidiaries that are not insured depository institutions. These commenters stated that professional standards for attestation engagements (i.e., Statement of Standards for Attestation Engagements No. 2, ''Reporting on an Entity's Internal Control Structure Over Financial Reporting'' (AICPA, Professional Standards, vol. 1, AT sec. 400), which superseded Statement of Auditing Standards No. 30, ''Reporting on Internal Accounting Control) require that all entities covered by the financial report must be included in the attestation on internal controls for financial reporting. However, the statute applies only to insured depository institutions. Thus, the FDIC may not have the authority to enforce the rule against other entities. Nevertheless, the FDIC would not take exception to the inclusion of all entities covered by the financial report in the internal control attestation.

9. *Safeguarding of Assets.* Numerous commenters appeared to misunderstand the proposed revision of this guideline. It was not intended to require the use of the phrase ''safeguarding of assets'' in either the management report or accountant's attestation, and the final amendment so states. The proposed replacement of the two sentences of the original Guideline with specific references to types of safeguarding has been revised. The sentence from the original Guideline, ''The FDIC does not require the accountant to attest to the adequacy of safeguards, but does require the accountant to determine whether

safeguarding policies exist,'' which had been proposed for elimination, is being retained.

32. Duties. In this Guideline's discussion of the audit committee's duty to review the reports prepared by management and the independent public accountant under this rule, the words ''the reports'' have been changed to ''their respective reports.'' This clarifies that the audit committee should review management reports with management, and the reports of the independent public accountant with the accountant.

C. Amendments to Schedule A to Appendix A

Several commenters expressed concern about the action an accountant must take when a change occurs in the information that had previously been provided to the accountant in a written representation. A new statement has been added to Schedule A to clarify that unless otherwise stated, the date of any required representation should be the same as the date of the attestation report, and the representation should provide information available as of that date.

A new sentence also has been added at the beginning of Schedule A explaining that where any representation is required, it should be obtained in writing.

One commenter observed that the agreed-upon procedures required that calculations be compared to the total risk-based capital reported on the bank Reports of Condition and Income (Call Report). However, this amount, which was formerly reported in item 3 of Schedule RC–R, was deleted from the Call Report as of March 31, 1995, but the Federal Financial Institutions Examination Council has approved its restoration to the Call Report in March 1996. Therefore, no change is made to Schedule A. Nevertheless, for the period this item is not reported in the bank Call Report, no exception need be reported for the inability to perform this comparison procedure.

1. Section I. Procedures for Individual Institutions

Many suggestions for clarifying the text were adopted in the final rule.

a. Loans to Insiders. In response to concern about the burden associated with the amount of information that the accountant must read, the procedures in section I.A.1. of Schedule A of Appendix A have been revised to more specifically identify the sections and paragraphs of the laws and regulations that must be read. More specifically, the accountant is required to read only those laws and regulations that pertain to the institution based on its charter and primary federal banking agency. To lessen the burden of reading all board of directors and appropriate committee minutes and all SEC filings, the final procedures have been revised to require the accountant to read only those documents which management represents contain pertinent insider lending information. In addition, Tables 1 and 2, which identify the designated laws and regulations, have been included at the end of Schedule A to Appendix A to clarify the applicable reading for each type of insured institution.

Several respondents expressed concerned about the burden of obtaining or maintaining all ''other records'' about insider loans in one location when they had numerous officers and worldwide operations. This reflected an apparent misunderstanding of the requirement in paragraph I.A.2.a.(4) of Schedule A to Appendix A. Federal Reserve Board Regulation O permits institutions to conduct an annual survey of all insiders *or* to maintain ''other records'' rather than the survey. The proposed wording, ''and/or,'' was drafted to try to accommodate this Regulation O provision. However, for clarity, only the word ''or'' is used in the final amendment so that it is understood that all insider loan records need not be accumulated in one location in order for these procedures to be performed.

To make the procedures more consistent with the requirements of Regulation O and the operations of many institutions, footnote 2 has been revised to permit overdrafts of $1,000 or less without overdraft protection, and overdrafts of $5,000 or less with overdraft protection, to be omitted from the Insiders Extensions List.

Many commenters sought clarification of the phrase ''most recently completed Call Report.'' They inquired whether the FDIC meant the most recently completed Call Report whether or not it had been filed, the most recently filed Call Report whether or not its editing had been completed by the appropriate federal banking agency for release to the public, or the most recently filed Call Report that was available for release to the public. Appendix A has been revised throughout to indicate that the most recently filed Call Report, whether or not it is available for release to the public, should be used. In this regard, a new footnote has been added to describe what should be done when the procedures call for information during the previous fiscal year and a Call Report for a date other than a calendar year-end Call Report is used. The footnote indicates that the accountant should use information pertaining to the period beginning from the date of the most recently filed Call Report back to the latest Call Report date for which these procedures were performed in the prior year.

The proposal required management to represent that any persons ''excluded'' from being executive officers were named as such in a board resolution or the by-laws. Many commenters stated that boards typically ''include'' persons as executive officers either specifically by name or by specific office occupied. Paragraph I.A.2.a.(7)(b) of Schedule A has been revised to require management to confirm the ''inclusion'' of executive officers by board resolution or in the by-laws.

Commenters also stated that requiring accountants to trace and agree every loan and extension of credit on the Insiders Extensions List in Paragraph I.A.2.b.(2) of Schedule A was burdensome in a large institution with many officers and directors. To lessen that burden, the final regulation has been changed so that only a ''sample'' of such loans needs to be traced and agreed.

The proposal considered the following to be issues for which boards of directors would have adopted specific policies: revising the institution's policies to reflect subsequent changes in laws and regulations; educating employees about legal requirements and management's related policies and procedures; and reporting insider loans to regulatory agencies on the institution's Call Report or TFR. However, these issues are not typically addressed in board policies. For that reason, although they had been included in the existing regulation, they have been removed from Paragraph I.A.3.b. of Schedule A.

Several commenters suggested that the FDIC set size limits for the samples to be tested under the various agreed-upon procedures in Schedule A. The FDIC remains opposed to this because it believes that setting sample sizes for testing should remain the responsibility of the auditing profession. The American Institute of Certified Public Accountants has previously suggested the following sample sizes for purposes of testing under Part 363. The FDIC has raised no objection.

Population No. (N)	Sample size
100 or greater	60
50 to 100	25
0 to 50	N or 20, whichever is smaller

There were many comments on Paragraphs I.A.5.b.(2) and (3) of Schedule A, which address the calculation of an institution's individual lending limit and the number of transactions involving each insider in the sample that must be tested. The Offices of the Comptroller of the Currency (OCC) and Thrift Supervision (OTS) now permit institutions to calculate the individual lending limit as of the Call Report or TFR date immediately preceding the loan origination date, rather than requiring them to calculate the limit on the exact date the loan was granted. Commenters urged the FDIC to incorporate this method in the procedures. They also suggested that the burden of these procedures could be reduced by testing one transaction per insider, not all types of transactions, and that eliminating or substantially lengthening the time frame for comparing the terms of transactions to see whether they are preferential. Many of these changes have been made. However, the time frame for the comparison of loans has not been eliminated. Instead, this time frame was extended from the existing two weeks and proposed four weeks before or after the granting of the loan to 90 days prior or subsequent to the grant date. This provides a window of approximately six months in which to find similar loans. The FDIC concluded that a longer period would not be appropriate because significant changes in market interest rates may occur during such a period. As an alternative, each insider loan in the sample may be compared with the institution's approved policies delineating the interest rate and other terms and conditions in effect for similar extensions of credit to unaffiliated borrowers.

Commenters also requested that, for purposes of paragraph I.A.5.b.(3), examples of ''similar extensions of credit'' and ''terms of the transactions'' be included. Paragraph I.A.5.b.(3) has been revised to include such examples.

The final wording of paragraph I.A.6.b.(4) has been narrowed so that it applies only if the credit extended is a real estate loan granted for the purchase, construction, maintenance, or improvement of the executive officer's residence. The proposed wording would have included home equity loans for general consumer purchases, but this type of loan is not covered by the provision of the Designated Laws being tested under paragraph I.A.6.b.(4).

Several commenters mentioned that performing the procedures based on their most recently filed Call Report or TFR permitted them to perform the procedures prior to year end, but requiring the use of the reports on indebtedness to correspondent banks, which is not due until January 31 of the following year, kept them from completing the procedures in a timely manner. To remedy this problem, paragraph I.A.9.a.(1) of the final rule permits institutions that use a calendar year fiscal year to use the reports on indebtedness to correspondent banks prepared for the prior year in order to perform the procedures. Any duplication during the first year that this procedure may cause need not be performed, and in future years the institution should continue to use the preceding year's report. However, should an institution that has previously made this choice decide to revert to using the reports of indebtedness to correspondent banks filed in the following year, it will be expected to perform the procedures for the two years' reports so that continuity in the coverage of the procedures is maintained.

b. Dividend Restrictions. A sentence has been added to explain that since laws and regulations pertaining to dividend restrictions cover institutions and not holding companies, the procedures in Part B should be followed for each institution and subsidiary institution of a holding company covered by this part. However, if the holding company has more than five subsidiary institutions covered by this part, the procedures may be performed on a sample of dividend declarations. The number ''five'' was chosen based on sample sizes suggested by the American Institute of Certified Public Accountants. The AICPA stated that when there are fewer than 50 transactions in the population to be sampled, the smaller of the total number of transactions, or 20 items, were to be tested. In this regard, if each of five covered institutions declared dividends quarterly, there would be 20 transactions to test.

Commenters suggested that the FDIC should permit the most recent quarter end (or month end, if available) to be used for determining whether the declaration of a dividend would cause the institution to be undercapitalized rather than requiring the institution to perform this calculation as of the exact date the dividend is declared. This suggested method would be consistent with recent rulings by the OCC and OTS that quarter-end Call Reports may be used for calculating legal lending limits. The final rule permits use of quarter-end date.

2. Section II. Procedures for the Independent Public Accountant

The proposal would have required that if an internal auditor performed part of the procedures in Section I, a summary of ''significant'' findings and management's response should be filed with the FDIC and appropriate federal banking agency as part of the institution's annual submission. However, it is now noted that if any findings are ''significant,'' they should be disclosed in management's report and attestation. For that reason, the word ''significant'' has been deleted from Section II, but the requirement for a summary is retained so that the agencies receive information about the internal auditor's findings.

As proposed, the amount of testing the independent public accountant would be required to perform under paragraph II.B.3.a. was raised from 20 to 30 percent of the size of the sample tested by the internal auditors. This change was suggested because the proposal reduced the amount of testing that internal auditors would be required to perform on a holding company. Several commenters stated the increase was burdensome and unnecessary. The FDIC continues to believe that independent public accountants will be performing far fewer tests than under the current procedure and that some increase in the percentage is warranted. For that reason and to limit burden, the percentage has been reduced to 25 percent in the final rule.

The changes and reformatting in the procedures from the current rule to the final rule are outlined in the Table A below:

TABLE A.—REFORMATTING CHANGES TO SCHEDULE A TO APPENDIX A

Subject	Old section I	New section I
Insider loans:		
Designated Laws and Regulations	A.1	A.1.
General Information	A.2.a	A.2.a.
Calculations	A.2.b	A.4.
Policies and Procedures	A.2.c	A.3.
Insider Transactions	A.2.d	A.5.
Loans to Correspondent Banks	A.2.d.(1)	A.9.
Aggregate Indebtedness	A.2.d.(2)(a) A.2.d.(7)	A.2.b.(2) A.7.
Executive Officers	A.2.d.(2)(b) & (c) A.2.e.(ii).	Deleted A.6.
Insider Extensions of Credit	A.2.d.(2)(d) & (e) A.2.d.(5) & (6).	A.5.
Overdrafts	A.2.d.(3)	A.8.
Reports on Indebtedness to Correspondent Banks	A.2.e	A.9.
Dividend Restrictions:		
Designated Laws and Regulations	B.1	B.1.
General Information	B.2	B.2.
Policies and Procedures	B.2.b	B.3.
Board Minutes	B.2.c	B.4.
Calculation of Undercapitalization	B.2.d	B.5.
Dividends Declared by Banks	B.2.e	B.6.
Dividends Declared by Savings Associations	B.2.f	B.7

Subject	Old section II	New section II
Procedures for the independent public accountant:		
Designated Laws and Regulations	A. & B.1	A. & B.1.
Internal Auditor's Workpapers	B.2	B.2
Testing	C	B.3.
Reports Concerning Holding Companies	D	B.4.

D. Timing and Effective Date

Since the majority of covered institutions have fiscal years that coincide with the calendar year, many are in the process of preparing annual reports and having the agreed-upon procedures performed. In order to make this process less burdensome for institutions and their accountants, the FDIC will raise no objection if an institution chooses to have its independent public accountant perform the agreed-upon procedures in Schedule A to Appendix A of the existing rule, the February 1995 proposal, or this final amendment to Schedule A to Appendix A for fiscal years ending on or before March 31, 1996. However, when an institution and its independent public accountant choose a version of the agreed-upon procedures for the fiscal year, the accountant must use a single version of the procedures for both of the Designated Laws. For any institution with a fiscal year that ends after March 31, 1996, the accountant should use the procedures of this amendment.

List of Subjects in 12 CFR Part 363

Accounting, Attestation, Audit committee, Banks, banking, Internal controls, Management letter, Peer review, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board of Directors of the FDIC hereby amends Part 363 of title 12, chapter III, of the Code of Federal Regulations as follows:

PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

1. The authority citation for Part 363 continues to read as follows:

Authority: 12 U.S.C. 1831m.

2. Section 363.1 is amended by revising paragraph (b) to read as follows:

§ 363.1 Scope.

* * * * *

(b) *Compliance by subsidiaries of holding companies.* (1) The audited financial statements requirement of § 363.2(a) may be satisfied for an insured depository institution that is a subsidiary of a holding company by audited financial statements of the consolidated holding company.

(2) The other requirements of this part for an insured depository institution that is a subsidiary of a holding company may be satisfied by the holding company if:

(i) The services and functions comparable to those required of the insured depository institution by this part are provided at the holding company level; and

(ii) The insured depository institution has as of the beginning of its fiscal year:

(A) Total assets of less than $5 billion; or

(B) Total assets of $5 billion or more and a composite CAMEL rating of 1 or 2.

(3) The appropriate federal banking agency may revoke the exception in paragraph (b)(2) of this section for any institution with total assets in excess of $9 billion for any period of time during which the appropriate federal banking agency determines that the institution's exemption would create a significant risk to the affected deposit insurance fund.

3. Section 363.4 is amended by revising paragraph (b) to read as follows:

§ 363.4 Filing and notice requirements.

* * * * *

(b) *Public availability.* The annual report in paragraph (a)(1) of this section shall be available for public inspection.

* * * * *

4. Section 363.5 is amended by revising paragraph (b) to read as follows:

§ 363.5 Audit committees.

* * * * *

(b) *Committees of large institutions.* The audit committee of any insured

depository institution that has total assets of more than $3 billion, measured as of the beginning of each fiscal year, shall include members with banking or related financial management expertise, have access to its own outside counsel, and not include any large customers of the institution. If a large institution is a subsidiary of a holding company and relies on the audit committee of the holding company to comply with this rule, the holding company audit committee shall not include any members who are large customers of the subsidiary institution.

5. Appendix A to Part 363 is amended by revising paragraphs 4(c), 9, 24, 31, the introductory text of paragraph 32, footnote 2 in paragraph 10, and footnote 3 in paragraph 15(b) to read as follows:

Appendix A to Part 363—Guidelines and Interpretations

* * * * *

4. *Comparable Services and Functions.*

* * *

* * * * *

(c) Prepares and submits the management assessments of the effectiveness of the internal control structure and procedures for financial reporting (internal controls), and compliance with the Designated Laws defined in guideline 12 based on information concerning the relevant activities and operations of those subsidiary institutions within the scope of the rule.

* * * * *

9. *Safeguarding of Assets.* ''Safeguarding of assets'', as the term relates to internal control policies and procedures regarding financial reporting, and which has precedent in accounting literature, should be encompassed in the management report and the independent public accountant's attestation discussed in guideline 18. Testing the existence of and compliance with internal controls on the management of assets, including loan underwriting and documentation, represents a reasonable implementation of section 36. The FDIC expects such internal controls to be encompassed by the assertion in the management report, but the term ''safeguarding of assets'' need not be specifically stated. The FDIC does not require the accountant to attest to the adequacy of safeguards, but does require the accountant to determine whether safeguarding policies exist.[1]

10. * * *[2]

* * * * *

15. * * *

(b) * * *[3]

* * * * *

24. *Relief from Filing Deadlines.* Although the reasonable deadlines for filings and other notices established by this part are specified, some institutions may occasionally be confronted with extraordinary circumstances beyond their reasonable control that may justify extensions of a deadline. In that event, upon written application from an insured depository institution, setting forth the reasons for a requested extension, the FDIC or appropriate federal banking agency may, for good cause, extend a deadline in this part for a period not to exceed 30 days.

* * * * *

31. *Holding Company Audit Committees.* When an insured depository institution subsidiary fails to meet the requirements for the holding company exception in § 363.1(b)(2) or maintains its own separate audit committee to satisfy the requirements of this part, members of the independent audit committee of the holding company may serve as the audit committee of the subsidiary institution if they are otherwise independent of management of the subsidiary, and, if applicable, meet any other requirements for a large subsidiary institution covered by this part. However, this does not permit officers or employees of a holding company to serve on the audit committee of its subsidiary institutions. When the subsidiary institution satisfies the requirements for the holding company exception in § 363.1(b)(2), members of the audit committee of the holding company should meet all the membership requirements applicable to the largest subsidiary depository institution and may perform all the duties of the audit committee of a subsidiary institution, even though such holding company directors are not directors of the institution.

32. *Duties.* The audit committee should perform all duties determined by the institution's board of directors. The duties should be appropriate to the size of the institution and the complexity of its operations, and include reviewing with management and the independent public accountant the basis for their respective reports issued under §§ 363.2(a) and (b) and 363.3(a) and (b). Appropriate additional duties could include:

* * * * *

6. Schedule A to Appendix A to Part 363 is revised to read as follows:

Schedule A to Appendix A—Agreed Upon Procedures for Determining Compliance With Designated Laws

1. The Agreed Upon Procedures set forth in this schedule are referred to in guideline 19. They should be followed by the institution's independent public accountant (or, with respect to the procedures set forth in section I of this schedule, by the institution's internal auditor if the accountant is to perform the procedures set forth in section II) in order to permit the accountant to report on the extent of compliance with the Designated Laws (defined in guideline 12) as required by sections 36(e)(1) and (2). Unless otherwise stated, the date of any required representation should be the same as the date of the attestation report and the representation should provide information to the extent available as of that date.

2. For purposes of this Schedule A, ''insiders'' means directors, executive officers, and principal shareholders, and includes their related interests. All terms not defined in this schedule have the meanings given them in this part, the Guidelines, and professional accounting and auditing literature.

3. Additional guidance concerning the role of the institution, its internal auditor, and its independent public accountant in assessing the institution's compliance with the Designated Laws is set forth in the Guidelines.

Section I—Procedures for Individual Institutions

The following procedures should be performed by the institution's independent public accountant in accordance with generally accepted standards for attestation engagements, or by the institution's internal auditor if the procedures set forth in section II of

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[1] It is management's responsibility to establish policies concerning underwriting and asset management and to make credit decisions. The auditor's role is to test compliance with management's policies relating to financial reporting.

[2] In considering what information is needed on safeguarding of assets and standards for internal controls, management may review guidelines provided by its primary federal regulator; the Federal Financial Institutions Examination Council's ''Supervisory Policy Statement on Securities Activities''; the FDIC's ''Statement of Policy Providing Guidance on External Auditing Procedures for State Nonmember Banks'' (Jan. 16, 1990), ''Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks'' (Nov. 16, 1988), and Division of Supervision Manual of Examination Policies; the Federal Reserve Board's Commercial Bank Examination Manual and other relevant regulations; the Office of Thrift Supervision's Thrift Activities Handbook; the Comptroller of the Currency's Handbook for National Bank Examiners; standards published by professional accounting organizations, such as the American Institute of Certified Public Accountants' (AICPA) Statement on Auditing Standards No. 55, ''Consideration of the Internal Control Structure in a Financial Statement Audit''; the Committee of Sponsoring Organizations (COSO) of the Treadway Commission's *Internal Control—Integrated Framework*, including its addendum on safeguarding of assets; and other internal control standards published by the AICPA, other accounting or auditing professional associations, and financial institution trade associations.

[3] These would include Standards for Performing and Reporting on Peer Reviews, codified in the *SEC Practice Section Reference Manual*, and Standards for Performing and Reporting on Peer Reviews, contained in Volume 2 of the AICPA's *Professional Standards*.

this schedule are to be performed by the independent public accountant. (See section II.B.3. for information concerning testing by the independent public accountant when the institution's internal auditor is performing the procedures in Section I.)

A. *Loans to Insiders.* To the extent permitted by § 363.1(b)(2), these procedures may be performed on a holding company basis rather than at each covered subsidiary insured depository institution.

1. *Designated Laws.* The following federal laws and regulations (Designated Insider Laws), to the extent that they are applicable to the institution,[1] should be read:

a. Laws: 12 U.S.C. 375a, 375b, 1468(b), 1828(j)(2), and 1828(j)(3)(B); and

b. Regulations: 12 CFR 23.5, 31, 215, 337.3, 349.3, and 563.43.

2. *General.*

a. *Information.* Obtain from management of the institution the following information for the institution's fiscal year:[2]

(1) Management's assessment of compliance with the Designated Insider Laws;

(2) All minutes (including minutes drafted, but not approved) of the meetings of the board and of those committees of the board which management represents have been delegated authority pertaining to insider lending;

(3) The relevant portions of reports of examination, supervisory agreements, and enforcement actions issued by the institution's primary federal and state regulators, if applicable, which management represents contain information pertaining to insider lending;

(4) The annual survey which identifies all insiders of the institution (pursuant to 12 CFR 215.8(b)) or other records maintained on insiders of the institution's affiliates (pursuant to 12 CFR 215.8(c));

(5) The relevant portions of the following Securities Exchange Act of 1934 filings, which management represents contain information pertaining to insider lending:

(a) Forms 10–K, 10–Q, and 8–K and proxy statements (or information statements) filed with the SEC, Federal Reserve Board, OCC, or OTS, or

(b) Forms F–2, F–3, and F–4 and proxy statements (or information statements), filed with the FDIC;

(6) A list of loans, including overdrafts of executive officers and directors,[3] and other extensions of credit to insiders (including their related interests) outstanding at any time during the fiscal year (and which identifies those extensions granted during the year). This list should also include the amount outstanding of each extension of credit as of the date of the most recently filed Call Report or TFR (Insider Extensions List); and

(7) Management's representation concerning:

(a) The completeness of the Insider Extensions List;[4] and

(b) The inclusion of all required insiders on the annual survey obtained in paragraph A.2.a.(4) of this section including persons who have been designated as executive officers by resolution of the board or a committee of the board or in the by-laws of the institution.

b. *Procedures:*

(1) Read the foregoing information.

(2) Trace and agree a sample of insider loans and other extensions of credit disclosed in the documents listed in paragraphs A.2.a.(2) through (5) of this section to see that they are included on the Insider Extensions List.

3. *Policies and Procedures.*

a. *Information.* Obtain the institution's written policies and procedures concerning its compliance with the Designated Insider Laws, including any written ''Code of Ethics'' or ''Conflict of Interest'' policy statements. If the institution has no written policies and procedures, obtain a narrative from management that describes the methods for complying with such laws and regulations, and includes provisions similar to those listed in paragraph A.3.b. of this section.

b. *Procedures.* Ascertain that the policies and procedures include, or incorporate by reference, provisions consistent with the Designated Insider Laws for:

(1) Defining terms;

(2) Restricting loans to insiders;

(3) Maintaining records of insider loans;

(4) Requiring reports and/or disclosures by the institution and by executive officers, directors, and principal shareholders (and their related interests);

(5) Disseminating policy information to employees and insiders; and

(6) Prior approval of the board of directors.

4. *Calculations of Lending Limits.*

a. *Information.* Obtain management's calculation of the following items as of the date of the institution's most recently filed Call Report or TFR and as of a Call Report or TFR date six or nine months earlier:

(1) The institution's unimpaired capital and surplus (the aggregate lending limit for all insiders); and

(2) The institution's individual lending limit (12 CFR 215.2(i)).

b. *Procedures.* Recalculate the amounts in paragraph A.4.a. of this section for mathematical accuracy, and trace the amounts used in management's calculations to the Call Reports or TFRs for the two dates used in paragraph A.4.a. of this section.

5. *Insider Extensions of Credit Granted.*

a. *Information.* Obtain management's representation regarding whether the terms and creditworthiness of insider extensions of credit granted during the fiscal year are comparable to those that would have been available to unaffiliated third parties.

b. *Procedures.* Select a sample of insiders who were granted or had outstanding extensions of credit during the fiscal year from the Insider Extensions List. For each extension of credit granted during the fiscal year to each insider in the sample selected:

(1) If the amount of a credit granted during the year (when aggregated with all other extensions of credit to that person and to all related interests of that person) exceeds $500,000, determine whether the minutes of the meetings of the board of directors indicate that:

(a) The credit was approved in advance by the board, and

(b) The insider, if a director, abstained from participating directly or indirectly in voting on the transaction;

(2) Obtain management's calculation of the institution's individual lending limit for insiders pursuant to 12 CFR 215.2(i) as of the date of the Call Report or TFR filed immediately prior to the date when the extension of credit was granted, and if not already done under

[1] The laws and regulations applicable to each type of institution are listed in Table 1 of this Schedule A to Appendix A.

[2] If the institution chooses to have these procedures performed using its most recently filed Call Report rather than its year end Call Report, all references to ''fiscal year'' in these procedures shall mean the period beginning with the latest Call Report date for which these procedures were performed in the prior year and ending with the date of the most recently filed Call Report. If these procedures were not previously performed, the 12 month period immediately preceding the date of the most recently filed Call Report (or such shorter period during which the institution was covered by this Part 363) should be used.

[3] Management may exclude from this list overdrafts of an executive officer or director in an aggregate amount of $1,000 or less without overdraft protection and those of $5,000 or less with overdraft protection as specified in 12 CFR 215.3(b)(6) if management provides the independent accountant with a representation that policies and procedures are in effect to report as extensions of credit all overdrafts that do not meet the criteria listed in paragraphs A.8.a.(2)(a) through (c) of this section.

[4] See footnote 3 of this schedule.

paragraph A.4.b. of this section, recalculate the lending limits for mathematical accuracy, and trace the amounts used in management's calculations to the Call Report or TFR for that date. Ascertain whether the amount of the extension of credit being granted to the insider, when combined with all other extensions of credit to that insider, exceeds such limit; and

(3) For one transaction involving each insider in the sample selected in paragraph A.5.b. of this section, perform the procedures in either paragraph (a) or (b) as follows:

(a) Select three (or such smaller number that exists) similar extensions of credit (e.g., commercial real estate loans, floor plan loans, residential mortgage loans, consumer loans) granted to unaffiliated borrowers (i.e., persons who are not insiders or employees of the institution or its affiliates) within 90 days before or after the granting of the insider extension of credit. Compare the terms of the transactions with unaffiliated borrowers (i.e., rate or range of interest rates, maturity, payment terms, collateral, and any unusual provisions or conditions) to those with the insiders, and note in the findings any differences in the terms favorable to the insiders compared to the terms of the transactions with unaffiliated borrowers.

(b) Alternatively, compare the terms of each insider transaction in the sample to approved policies delineating the interest rate and other terms and conditions then in effect for similar extensions of credit to unaffiliated borrowers. Note in the findings any differences in the terms favorable to the insiders compared to the terms of the approved policies for an extension of credit to persons not affiliated with the institution or its affiliates.

6. *Limitation on Extensions of Credit to Executive Officers.*

a. *Information.* From the sample selected in paragraph A.5.b. of this section, select the executive officers who were granted extensions of credit during the fiscal year.

b. *Procedures.*

(1) For each executive officer selected, obtain management's calculation as of the two dates used in paragraph A.4.a. of this section of:

(a) The aggregate amount of extensions of credit to the executive officer, and

(b) 2.5 percent of the institution's unimpaired capital and surplus.

(2) Recalculate management's computations from paragraph A.6.b.(1) of this section for mathematical accuracy. Trace amounts used in management's computations from paragraph A.6.b.(1) to the Call Reports or TFRs for the two dates used in paragraph A.4.a. of this section.

(3) Ascertain whether the aggregate amount of the extensions of credit to the executive officer does not exceed the greater of $25,000 or 2.5 percent of the institution's unimpaired capital and surplus, but in no event more than $100,000. The aggregate amount should exclude the types of extensions of credit set forth in 12 CFR 215.5(c)(1) through (3).

(4)(a) Obtain documentation for any credits for which management represents that:

(i) The purpose is for the purchase, construction, maintenance, or improvement of the executive officer's residence;

(ii) The credit is secured by a first lien on the residence; and

(iii) The executive officer owns or expects to own the residence after the extension of credit.

(b) Note whether the documentation contains similar representations.

(5) For each executive officer selected, ascertain that each extension of credit granted during the fiscal year was:

(a) Preceded by submission of financial statements;

(b) Approved by, or, when appropriate, promptly reported to, the board of directors no later than the next board meeting; and

(c) Made subject to the written condition that the extension of credit will become, at the option of the institution, due and payable at any time that the executive officer is indebted to other insured institutions in an aggregate amount greater than the executive officer would be able to borrow from the institution.

7. *Aggregate Insider Extensions of Credit Outstanding.*

a. *Information.* Obtain management's calculation of the aggregate extensions of credit to executive officers, directors, and principal shareholders of the institution and to their related interests, excluding the types of extensions of credit set forth in 12 CFR 215.4(d)(3), as of the two dates selected in paragraph A.4.a. of this section.

b. *Procedures.*

(1) Recalculate the amounts obtained in paragraph A.7.a. of this section for mathematical accuracy and ascertain that this total, excluding the types of extensions of credit set forth in 12 CFR 215.4(d)(3), is less than or equal to 100 percent of the institution's unimpaired capital and surplus calculated in paragraph A.4.a.(1) of this section.

(2) Using the sample of insiders selected in paragraph A.5.b. of this section, trace and agree amounts outstanding from insiders in the sample to the supporting documents, as applicable, for the line item aggregating indebtedness of all insiders on the institution's most recently filed Call Report or TFR.

8. *Overdrafts.*

a. *Information.* Select a sample of executive officers and directors who had overdrafts outstanding during the fiscal year as shown on the Insider Extensions List.

(1) For all overdrafts in the sample except those which are covered by an overdraft protection line of credit with the same terms as available to unaffiliated borrowers and meet the terms of that overdraft protection line, obtain management's representation of the history of the insider's overdrafts for the year and the completeness of that history.

(2) If the institution's management has *not* provided a representation as specified by footnote 3 to paragraph A.2.a.(6) of this section, for each overdraft in the sample in an aggregate amount of $1,000 or less for an executive officer or director who did not have the overdraft covered by an overdraft protection line of credit, obtain management's representation that:

(a) It believes the overdraft was inadvertent;

(b) The account was overdrawn in each case for no more than 5 business days; and

(c) The institution charged the executive officer or director the same fee that it would charge any other customer in similar circumstances.

b. *Procedures.* For each overdraft in the sample selected and used in paragraph A.8.a.(1) of this section for which management did not provide the representation in paragraph A.8.a.(2) of this section:

(1) Inquire whether cash items for the insider were being held by the institution during the time that the overdraft was outstanding to prevent additional overdrafts;

(2) Trace and agree subsequent payment by the insider of the insider's overdrafts to records of the account at the institution; and

(3) For overdrafts of executive officers and directors that were paid by the institution for the executive officer or director from an account at the institution:

(a) Trace and agree to a written, pre-authorized, interest-bearing extension of credit plan that specifies a method of repayment; or

(b) Trace and agree to a written, pre-authorized transfer of funds from

another account of the insider at the institution.

9. *Reports on Indebtedness to Correspondent Banks.*

a. *Information.* Obtain from management:

(1) A list of executive officers and principal shareholders and related interests thereof that filed reports of indebtedness to a correspondent bank. This list should be prepared by management from reports of indebtedness submitted for the calendar year for which the management assessment and independent public accountant's attestation are being filed or, if the institution is on a calendar year fiscal year, at management's option, for the immediately preceding year. If the institution is not on a calendar year fiscal year, the list should be prepared for the calendar year that ended during its fiscal year; and

(2) Its representation concerning the completeness of the list prepared for paragraph A.9.a.(1) of this section.

b. *Procedures.* Select a sample of executive officers, principal shareholders, and related interests thereof from the list obtained in paragraph A.9.a.(1) of this section. For each executive officer and principal shareholder (or related interest thereof) included in the sample, ascertain that the report(s) of indebtedness was (were) filed with the board of directors (on or before the January 31 following the calendar year in paragraph A.9.a.(1) of this section) and that such report(s) state(s):

(1) The maximum amount of indebtedness during that calendar year;

(2) The amount of indebtedness outstanding 10 days prior to report filing; and

(3) A description of the loan terms and conditions, including the rate or range of interest rates, original amount and date, maturity date, payment terms, collateral, and any unusual terms or conditions.

B. *Dividend Restrictions.* If the institution has declared any dividends during the fiscal year, the following procedures should be performed for each dividend declared. (These procedures are not applicable to mutual institutions and insured branches of foreign banks.) For an institution that is a subsidiary of a holding company, the procedures that follow should be applied to each subsidiary institution subject to this part (covered subsidiary) because the laws and regulations restricting dividends apply to individual institutions and not holding companies. However, if the annual report under Part 363 is being prepared on a holding company basis and the holding company has more than five covered subsidiaries, the following procedures may be applied to a sample of dividend declarations to the extent permitted by § 363.1(b) and Section II.B.3. of this schedule.

1. *Designated Laws.* The following federal laws and regulations (Designated Dividend Laws), to the extent that they are applicable to the institution (see paragraph B.2 of this section),[5] should be read:

a. Laws: 12 U.S.C. 56, 60, 1467a(f), 1831o; and

b. Regulations: 12 CFR 5.61, 5.62, 6.6, 7.6120, 208.19, 208.35, 325.105, 563.134, and 565.

2. *General.* The information requirements and procedures in paragraphs B.2. through B.5. of this section are applicable to all institutions. Paragraphs B.6. and B.7. of this section were designed to be applicable to member banks (i.e., national banks and state member banks) and federally-chartered savings associations, respectively. However, the requirements in paragraphs B.6. and B.7. of this section should be applied to a state nonmember bank or state savings association if management represents that the state has dividend restrictions substantially identical to those for a national bank or a federally-chartered savings association.

a. *Information.* Obtain from management of the institution the following information for the institution's most recent fiscal year:

(1) Its assessment of the institution's compliance with the Designated Dividend Laws and any applicable state laws and regulations cited in its assessment;

(2) A copy of any supervisory agreements with, orders by, or resolutions of any regulatory agency (including a description of the nature of any such agreements, orders, or resolutions) containing restrictions on dividend payments by the institution; and

(3) Its representation whether dividends declared comply with any restrictions on dividend payments under any supervisory agreements with, orders by, or resolutions of any regulatory agency (including a description of the nature of any such agreements, orders, or resolutions).

b. *Procedures.*

(1) Read the foregoing information.

(2) If any restrictions on dividend payments exist in any documents obtained in paragraph B.2.a.(2) of this section, test and agree dividends declared with any such quantitative restrictions.

3. *Policies and Procedures.*

a. *Information.* Obtain the institution's written policies and procedures concerning its compliance with the Designated Dividend Laws. If the institution has no written policies and procedures, obtain from the institution a narrative that describes the institution's methods for complying with the Designated Dividend Laws, and includes provisions similar to those in paragraph B.3.b of this section.

b. *Procedures.* Ascertain whether the policies and procedures include, or incorporate by reference, provisions which are consistent with the Designated Dividend Laws. These would include capital limitation tests, including section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), earnings limitation tests, transfers from surplus to undivided profits, and restrictions imposed under any supervisory agreements, resolutions, or orders of any federal or state depository institution regulatory agency. In addition, for savings associations, this would include prior notification to the OTS.

4. *Board Minutes.*

a. *Information.* Obtain the minutes of the meetings of the board of directors for the most recent fiscal year to ascertain whether dividends (either paid or unpaid) have been declared.

b. *Procedures.* Trace and agree total dividend amounts to the general ledger records and the institution's most recently filed Call Report or TFR.

5. *Calculation of Undercapitalization.*

a. *Information.* Obtain management's computation of the amount at which declaration of a dividend would cause the institution to be undercapitalized as of the quarter end (or more recent month end, if available from management) immediately prior to the date on which each dividend was declared during the fiscal year.

b. *Procedures.* Recalculate management's computation (for mathematical accuracy) and compare management's calculations to the amount of any dividend declared to determine whether it exceeded the amount.

6. *Dividends Declared by Banks.*

a. *Information.* If the institution is a national bank or state member bank, obtain management's computations concerning the bank's compliance with 12 U.S.C. 56, ''Capital Limitation Test'', 12 U.S.C. 60, ''The Earnings Limitation Test'', and transfers from surplus to undivided profits after declaration of the dividends referenced in paragraph

[5] The laws and regulations applicable to each type of institution are listed in Table 2 of this Schedule A to Appendix A.

B.4.a. of this section. If the institution is a state nonmember bank and management represents that the bank is subject to state laws that are similar to 12 U.S.C. 56 and 12 U.S.C. 60, obtain management's corresponding computations.

b. *Procedures.* Recalculate management's computations (for mathematical accuracy) and compare management's calculations to the standards defined in the tests set forth in paragraph B.6.a. of this section to ascertain whether the dividends declared fall within the permissible levels under these standards. If dividends are not permissible in the amounts declared under such standards, the independent public accountant should ascertain that the dividends were declared with the approval of the appropriate federal banking agency or under any other exception to the standards.

7. *Dividends Declared by Savings Associations.*

a. *Information.* Obtain management's documentation of the OTS determination whether the institution is a Tier 1, Tier 2, or Tier 3 savings association and management's computations of its capital ratio after declarations of dividends under the Tier determined by the OTS. For dividends declared, obtain copies of the savings association's notifications to the OTS to ascertain whether notifications were made at least 30 days before payment of any dividends.

b. *Procedures.* Recalculate management's computations (for mathematical accuracy) and trace amounts used by management in its calculations to the institution's TFRs.

Section II—Procedures for the Independent Public Accountant

If the internal auditor has performed the procedures set forth in section I for either or both Designated Laws, the following procedures may be performed by the independent public accountant if neither the FDIC nor the appropriate federal banking agency has objected in writing. The report of procedures performed and list of exceptions found by the internal auditor, identifying the institution with respect to which any exception was found, should be submitted to the audit committee of the board of directors. Management should file a summary of the internal auditor's findings and management's response to those findings with the FDIC and the appropriate federal banking agency at the same time as the independent public accountant's attestation report is filed.[6]

A. *Review of Section I Procedures.* Read the portion(s) of Section I of this schedule that set forth the procedures performed by the internal auditors.

B. *Information and Procedures.* Perform the following procedures:

1. *Designated Laws.* Read the Designated Laws referred to in Section I of this schedule for the agreed-upon procedures performed by the internal auditor. Obtain management's assessment contained in its management report on the institution's or holding company's compliance with the Designated Laws.

2. *Internal Auditor's Workpapers.*

a. *Information.* If an internal auditor performed the procedures in Section I, obtain the internal auditor's workpapers documenting the performance of those procedures on the institution and the chief internal auditor's representation that:

(1) The internal auditor or audit staff, if applicable, performed the procedures listed in section I on the institution;

(2) The internal auditor tested a sufficient number of transactions governed by the Designated Laws so that the testing was representative of the institution's volume of transactions;

(3) The workpapers accurately reflect the work performed by the internal auditor and, if applicable, the internal audit staff;

(4) The workpapers obtained are complete; and

(5) The internal auditor's report, which describes the procedures performed for the fiscal year as well as the internal auditor's findings and exceptions noted, has been presented to the institution's audit committee.

b. *Procedures.*

(1) Compare the workpapers to the procedures that are required to be performed under section I. Report as an exception any procedures not documented and any procedures for which the sample size is not sufficient.

(2) Compare the exceptions and errors listed by the internal auditor in its report to the audit committee to those found in the workpapers, and report as an exception any exception or error found in the internal auditor's workpapers and not listed in the internal auditor's list of exceptions.

3. *Testing.*

a. The independent public accountant should perform the procedures listed in Section I on representative samples of the insiders and/or transactions of the institution to which the Designated Law applies. If the institution's internal auditor performs the procedures in Section I, the samples tested by the independent public accountant should be at least 25 percent of the size of the samples tested by the internal auditor although samples selected by the accountant should be from the population at large. However, if there are so few transactions in any area that the internal auditor cannot use sampling, but must test all transactions, the independent public accountant should also test all transactions.

b. If testing under this Schedule A to Appendix A is being performed on a holding company with more than one subsidiary institution that is subject to this Part 363, the samples tested should include a combination of insiders and transactions from each covered subsidiary with total assets (after deductions of intercompany amounts that would be eliminated in consolidation) in excess of 25 percent of the holding company's total assets every fiscal year. Samples should be tested for each smaller covered subsidiary at least every other fiscal year unless the holding company has more than eight covered subsidiaries, in which case the samples to be tested for each Designated Law should be drawn from each smaller covered subsidiary at least every third fiscal year.

4. *Reports Concerning Holding Companies.* Only one report of any exceptions noted from application of the procedures in section II performed by the independent public accountant should be filed as required by guideline 3 in Appendix A to this Part 363, but the report should identify, for each exception or error noted, the identity of the covered subsidiary to which it relates.

[6] Since this summary provides information similar to that provided in the independent public accountant's report, the FDIC has determined that the summary is exempt from public disclosure consistent with the guidance in Guideline 18 in Appendix A to this Part 363.

Tables to Schedule A to Appendix A

TABLE 1

	Loans to insiders	For engagements involving management assertions about compliance by:			
		National banks	State member banks	State nonmember banks	Savings associations
Read the following parts and/or sections of Title 12 of the United States Code:					
375a	Loans to Executive Officers of Banks	√	√	√—Subsections (g) and (h) only	
375b	Prohibitions Respecting Loans and Extensions of Credit to Executive Officers and Directors of Banks, Political Campaign, Committees, etc.	√	√		
1468(b)	Extensions of Credit to Executive Officers, Directors, and Principal Shareholders.				√
1828(j)(2)	Provisions Relating to Loans, Extensions of Credit, and Other Dealings Between Member Banks and Their Affiliates, Executive Officers, Directors, etc.			√	
1828(j)(3)(B)	Extensions of Credit Applicability of Provisions Relating to Loans, Extensions of Credit, and Other Dealings Between Insured Branches of Foreign Banks and Their Insiders.	√ Applies only to insured federal branches of foreign banks.		√ Applies only to insured state branches of foreign banks.	
Read the following parts and/or sections of Title 12 of the Code of Federal Regulations:					
23.5	Application of Legal Lending Limits; Restrictions on Transactions With Affiliates.	√			
31	Extensions of Credit to National Bank Insiders	√			
215	Subpart A—Loans by Member Banks to Their Executive Officers, Directors, and Principal Shareholders.	√	√	(See 12 CFR Parts 337.3 and 349.3).	(See 12 CFR Parts 563.43)
	Subpart B—Reports of Indebtedness of Executive Officers and Principal Shareholders of Insured Nonmember Banks.	√	√		
337.3	Limits on Extensions of Credit to Executive Officers, Directors, and Principal Shareholders of Insured Nonmember Banks.			√	
349.3	Reports by Executive Officers and Principal Shareholders			√	
563.43	Loans by Savings Associations to Their Executive Officers, Directors, and Principal Shareholders.				√

TABLE 2

	Dividend restrictions	For engagements involving management assertions about compliance by:			
		National banks	State member banks	State nonmember banks	Savings associations
Read the following parts and/or sections of Title 12 of the United States Code:					
56	Prohibition of Withdrawal of Capital and Unearned Dividends	√	√		
60	Dividends and Surplus Funds	√	√		
1467a(f)	Declaration of Dividends				√
1831o	Prompt Corrective Action—Dividend Restrictions	√	√	√	√
Read the following parts and/or sections of Title 12 of the Code of Federal Regulations:					
5.61	Payment of dividends; capital limitation	√			
5.62	Payment of dividends; earnings limitation	√			
6.6	Prompt Corrective Action—Dividend Restrictions	√			
7.6120	Dividends Payable in Property Other Than Cash	√			
208.19	Payments of Dividends		√		
208.35	Prompt Corrective Action		√		
325.105	Prompt Corrective Action			√	
563.134	Capital Distributions				√
565	Prompt Corrective Action				√

By order of the Board of Directors.

Dated at Washington, DC, this 6th day of February 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3569 Filed 2–20–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–53–AD; Amendment 39–9511; AD 96–03–14]

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, that currently requires replacement of electrical wiring to the fuel shutoff valve for each engine. This amendment requires replacement of the fuel shutoff valve wire and sleeve with a wire in two non-metallic sleeves in the conduit in the struts of each engine. This amendment is prompted by reports of additional occurrences of chafing and shorting of the wiring of the engine fuel shutoff valves. The actions specified by this AD are intended to prevent such chafing and shorting, which could result in the pilot's inability to shut off the supply of fuel in the event of an engine fire.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2793; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–14–04, amendment 39–6246 (54 FR 27157, June 28, 1989), which is applicable to certain Boeing Model 747–400 series airplanes, was published in the Federal Register on September 7, 1995 (60 FR 46542). The action proposed to supersede AD 89–14–04 to require replacement of the wire and sleeve with a single wire in two non-metallic sleeves in the conduit in the struts of each engine.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Several commenters request that the compliance time for accomplishment of the replacement be extended from the proposed 12 months. Two of these commenters request an extension that will allow the replacement to be accomplished during a regularly scheduled ''C'' check (15 to 18 months), when the airplanes will be brought to a main base for an extended hold. These two commenters state that, in order to accomplish the replacement with the proposed compliance time, they would have to special schedule their fleet of airplanes, which would entail considerable additional expense. Another commenter states that it is currently accomplishing the modification required by AD 95–13–05, amendment 39–9285 (60 FR 33333, June 28, 1995), which includes a wiring modification that is equivalent to that proposed in the notice. This commenter further states that it will complete that modification in approximately four years; therefore, compliance with the proposed wiring replacement should be extended accordingly.

The FAA does not concur. In developing an appropriate time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspects of accomplishing the required replacement during affected operators' scheduled maintenance visits. In addition, the FAA has received reports that the wire chafing condition led to short circuits on airplanes that had accumulated 12,000 to 18,310 total flight hours after the incorporation of the modification required by AD 89–14–04. In light of this, the FAA has determined that the accumulated flight hours of some of the affected airplanes may be close to this range at the end of the 12 month compliance time. The FAA has also determined that a compliance time of 4 years for incorporation of the modification, as required by AD 95–13–05, is unacceptable. Such a compliance time would not address the subject unsafe condition in a timely manner. However, under the provisions of paragraph (b) of the final rule, the FAA may approve request for adjustments to the compliance time if data are presented to justify such an adjustment.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 311 Model 747–400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 80 work hours per airplane to accomplish the required action, at that the average labor rate of $60 per work hour. Required parts will cost approximately $673 per airplane. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $207,974, or $5,473 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6246 (54 FR 27157, June 28, 1989), and by adding a new airworthiness directive (AD), amendment 39–9511, to read as follows:

96–03–14 Boeing: Amendment 39–9511. Docket 95–NM–53–AD. Supersedes AD 89–14–04, Amendment 39–6246.

Applicability: Model 747–400 series airplanes; line positions 696 through 1046 inclusive, except airplane variable numbers RT502 and RU032 (airplane serial numbers 24062 and 25780, respectively); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability to shut off the supply of fuel in the event of an engine fire, accomplish the following:

(a) Within 12 months after the effective date of this AD, replace the fuel shutoff valve wire and sleeve with a wire in two non-metallic sleeves in the conduit in the struts of each engine, in accordance with Boeing Alert Service Bulletin 747–28A2186, dated January 19, 1995.

Note 2: Replacements accomplished prior to the effective date of this amendment in accordance with Boeing Alert Service Bulletin 747–54A2157, dated January 12, 1995, or Revision 1, dated August 3, 1995; or Boeing Alert Service Bulletin 747–54A2156, dated December 15, 1994, or Revision 1, dated July 20, 1995; are considered acceptable for compliance with the replacements specified in this amendment.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), 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, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(d) The replacement shall be done in accordance with Boeing Alert Service Bulletin 747–28A2186, dated January 19, 1995. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

(e) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 5, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2869 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–155–AD; Amendment 39–9514; AD 96–04–03]

Airworthiness Directives; Boeing Model 737–200 and –200C Airplanes Equipped With dB Partners Hush Kits Installed in Accordance With Supplemental Type Certificate (STC) SA5730NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737–200 and –200C airplanes, that currently requires installation of fail-safe straps onto the engine inlet attach ring of the nose cowl. This amendment requires repetitive inspections to detect cracking of the attach ring of the nose cowl, and replacement of cracked attach rings. Replacement with an improved attach ring, if accomplished, would terminate the requirement to inspect the attach ring repetitively. This amendment is prompted by the development of an improved attach ring that eliminates the need for repetitive inspections. The actions specified by this AD are intended to prevent cracking of the attach ring of the nose cowl, which could result in separation of the nose cowl from the engine following failure of a turbine blade.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

The incorporation by reference of Nordam Service Bulletin SB 71–03, dated March 17, 1995, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 2, 1995 (60 FR 19157, April 17, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Thomas Rodriguez, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–08–08, amendment 39–9197 (60 FR 19157, April 17, 1995), which is applicable to certain Boeing Model 737–200 and –200C airplanes, was published in the Federal Register on November 22, 1995 (60 FR 57840). The action proposed to supersede AD 95–08–08 to continue to require installation of fail-safe straps onto the engine inlet attach ring of the nose cowl. The action also proposed to require repetitive inspections to detect cracking of the attach ring of the nose cowl, and replacement of cracked attach rings. That action also proposed to provide an optional terminating action

(installation of an improved attach ring) for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 46 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1 airplane of U.S. registry will be affected by this AD.

The replacement action that is currently required by AD 95–08–08 takes approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided at no cost to the operator. Based on these figures, the cost impact of the currently required actions on the sole U.S. operator is estimated to be $480 per airplane.

The inspection that is required by this new AD will take approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $600 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9197 (60 FR 19157, April 17, 1995), and by adding a new airworthiness directive (AD), amendment 39–9514, to read as follows:

96–03–04 Boeing: Amendment 39–9514. Docket 95–NM–155–AD. Supersedes AD 95–08–08, Amendment 39–9197.

Applicability: Model 737–200 and –200C airplanes equipped with dB Partners Hush Kit having attach ring, part number 65ND–54301–1, installed in accordance with Supplemental Type Certificate (STC) SA5730NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the nose cowl from the engine following turbine blade failure, accomplish the following:

(a) Within 30 days after May 2, 1995 (the effective date of AD 95–08–08, amendment 39–9197), install fail-safe straps onto the attach ring, part number (P/N) 65ND–54301–1, of the nose cowl in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1, dated June 16, 1995.

(b) As of the effective date of this AD: Prior to further flight following each incident of turbine blade failure, perform a detailed visual inspection to detect cracking of the attach ring of the nose cowl. Fail-safe straps must be removed to perform this inspection.

(1) If no cracking is detected, prior to further flight, reinstall the fail-safe straps in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1 dated June 16, 1995.

(2) If any cracking is detected, prior to further flight, accomplish the requirements of either paragraph (b)(2)(i) or (b)(2)(ii) of this AD.

(i) Replace the cracked attach ring with an attach ring having P/N 65ND–54301–1 in accordance with STC SA5730NM, and reinstall the fail-safe strap in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1, dated June 16, 1995. Repeat the visual inspection of the attach ring prior to further flight following each incident of turbine blade failure. Or

(ii) Replace the cracked attach ring with an attach ring having P/N 65ND–54301–5 in accordance with Nordam Service Bulletin SB 71–04, Revision 1, dated June 16, 1995. After this replacement is accomplished, the inspections required by this paragraph may be terminated.

(c) Installation of an attach ring having P/N 65ND–54301–5 constitutes terminating action for the repetitive inspections required by paragraph (b) of this AD.

(d) As of May 2, 1995 (the effective date of AD 95–08–08), fail-safe straps must be installed onto the attach ring, P/N 65ND–54301–1, of the nose cowl in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1, dated June 16, 1995, prior to installation of STC SA5730NM on any airplane.

(e) 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, Seattle Aircraft Certification Office (ACO), 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, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) 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.

(g) The actions shall be done in accordance with the following Nordam service bulletins, as applicable, which contain the specified effective pages:

Service bulletin reference and date	Page No.	Revision level shown on page	Date shown on page
SB 71–03, March 17, 1995	1–12	Original	March 17, 1995.
SB 71–03, Revision 1, June 16, 1995	1–11	1	June 16, 1995.
	12	Original	March 17, 1995.
SB 71–04, Revision 1, June 16, 1995	1, 2	Original	May 22, 1995.
	3–18	1	June 16, 1995.

The incorporation by reference of Nordam Service Bulletin SB 71–03, dated March 17, 1995, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of May 2, 1995 (60 FR 19157, April 17, 1995). The incorporation by reference of the remainder of the service documents listed above is approved 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 The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. 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.

(h) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3150 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–34–AD; Amendment 39–9517; AD 96–04–05]

Airworthiness Directives; Airbus Model A300–B2 and –B4 Series Airplanes Equipped with General Electric CF6–50 Series Engines or Pratt & Whitney JT9D–59A Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A300–B2 and –B4 series airplanes. This amendment requires an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser. It also provides for an optional terminating action. This amendment is prompted by a report that, due to broken and deformed thrust reverser control lever springs, an uncommanded movement of the thrust reverser lever to the unlock position and a ''reverser unlock'' amber warning occurred on one airplane. The actions specified by this AD are intended to detect such broken or deformed control lever springs before they can lead to uncommanded deployment of a thrust reverser and subsequent reduced controllability of the airplane.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

ADDRESSES: 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300–B2 and –B4 series airplanes was published in the Federal Register on April 3, 1995 (60 FR 16813). That action proposed to require a mechanical integrity inspection to detect discrepancies of the thrust reverser control lever spring having part number (P/N) A2791294520000, and an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system. It also requires the correction of discrepancies or deactivation of the associated thrust reverser.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter notes that the Description section of the preamble to the notice states that ''* * * uncommanded movement of the thrust reverser lever to the unlock position and a 'reverser unlock' amber warning occurred.'' The commenter suggests, to be consistent with the current industry definition, a more accurate description of what caused the unsafe condition is ''inadvertently commanded deployment [of the thrust reverser].'' The FAA does not concur. The FAA has reviewed the relevant data available, and finds no basis to support the commenter's suggestion that the thrust reverser was ''commanded'' to deploy. The FAA finds that the pilot did not command the thrust reverser to deploy, nor did the pilot inadvertently deploy the thrust reverser.

Additionally, this commenter requests clarification of certain statements made in the Discussion section of the preamble to the notice. The commenter asks whether the reported incident occurred when the airplane was on the ground or in flight. The FAA concurs that some clarification is necessary. The incident occurred on the ground during a training flight where a simulated engine-out condition was performed. Since the Discussion section is not restated in this final rule, no change to the final rule is necessary as a result of this clarification.

The same commenter requests that the proposed rule be revised to require repetitive inspections of the thrust reverser control lever spring, and a final corrective action. The commenter asserts that, since the notice indicates that the unsafe condition is ''* * * likely to develop'' on affected airplanes, it would seem reasonable to require replacement of the spring, regardless of the condition of the spring at the initial inspection. Additionally, until the spring is replaced, it should be repetitively inspected, since it is not clear if the root cause of the problem is a design or assembly defect, or if it is time-related. The FAA concurs partially.

Since issuance of the notice, Airbus has issued Service Bulletin A300–78–0015, dated May 17, 1995, which describes procedures for replacement of the left and right control levers of the thrust reverser with a new control lever equipped with a new spring. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, approved this service bulletin. The FAA finds that the replacement specified in that service bulletin may be provided as an optional terminating action for the requirements of this final rule. Therefore, the FAA has added a new paragraph (b) to the final rule to provide for this option.

Additionally, the FAA is considering additional rulemaking to require repetitive inspections of the thrust reverser lever spring, as well as to mandate the eventual replacement of the thrust reverser control lever with the new control lever. However, the planned compliance time for this repetitive inspection and replacement is sufficiently long so that notice and public comment will be practicable.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 21 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $55 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,715, or $415 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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), 40113, 44701.

§ 39.13 [Amended]

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

96–04–05 Airbus Industrie: Amendment 39–9517. Docket 95–NM–34–AD.

Applicability: Model A300–B2 and B–4 series airplanes, equipped with General Electric CF6–50 series engines or Pratt & Whitney JT9D–59A engines; 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 request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure the detection of broken or deformed thrust reverser control lever springs that could lead to uncommanded deployment of a thrust reverser and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform a mechanical integrity inspection to detect discrepancies of the thrust reverser control lever spring having part number (P/N) A2791294520000, and an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system, in accordance with Airbus All Operators Telex AOT 78–03, Revision 1, dated July 20, 1994.

(1) If no discrepancies are detected, no further action is required by this AD.

(2) If the control lever spring is found broken or out of tolerance, prior to further flight, replace it with a new control lever spring or deactivate the associated thrust reverser in accordance with the AOT.

(3) If the flight inhibition circuit of the thrust reverser system fails the operational test, prior to further flight, determine the origin of the malfunction, in accordance with the AOT.

(i) If the origin of the malfunction is identified, prior to further flight, repair the flight inhibition circuit in accordance with the AOT.

(ii) If the origin of the malfunction is not identified, prior to further flight, replace the relay having P/N 125GB or 124GB, and repeat the operational test, in accordance with the AOT. If the malfunction is still present, prior to further flight, inspect and repair the wiring in accordance with the AOT. If the malfunction is still present following the inspection and repair, prior to further flight, deactivate the associated thrust reverser in accordance with the AOT.

(b) Replacement of the left and right control levers of the thrust reverser with a new control lever equipped with a new spring, in accordance with Airbus Service Bulletin A300–78–0015, dated May 17, 1995, constitutes terminating action for the requirements of this AD.

(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 actions shall be done in accordance with Airbus All Operators Telex AOT 78–03, Revision 1, dated July 20, 1994. 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 March 22, 1996.

Issued in Renton, Washington, on February 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3262 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice 2333]

Bureau of Consular Affairs; Passports for Minors

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends regulations regarding the basis for issuance and denial of passports to minors, both in custodial dispute and non-dispute situations. These amendments were proposed to promote the well being of minors and to discourage persons from circumventing valid court orders affecting minors.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth Hunter, Deputy Assistant Secretary for Passport Services, Room 6811, U.S. Department of State, Washington, DC 20520; tele: (202) 647–5366.

SUPPLEMENTARY INFORMATION: Present regulations prescribe the method of execution of a passport application for minors and address the issuance of passports to minors where a parent or guardian objects, 22 CFR 51.27. Specifically, the current regulations provide for the denial of a U.S. passport to a minor who has been involved in a custodial dispute if the passport issuing office receives a court order from a court within the country in which passport services are sought. Such a court order must provide that the objecting parent, legal guardian or person in loco parentis has been granted custody, or forbid the child's departure from the country in which passport services are sought without the permission of the court.

The revised regulations will implement a policy of denying passport services to minors on the basis of a court order of competent jurisdiction that has been registered with the appropriate office at the Department of State. For the purpose of these regulations, the Department will consider a court of competent jurisdiction to be a U.S. state court or a foreign court having jurisdiction over child custody issues consistent with the principles of the Hague Convention on the Civil Aspects of International Child Abduction and the Uniform Child Custody Jurisdiction Act, which favor the exercise of custody jurisdiction by the court of the child's ''habitual residence'' or ''home state.'' While the Department of State is not legally bound by U.S. state court and foreign court custody orders, the Department has determined that honoring such orders is generally appropriate to prevent unlawful child abductions. The revised regulations will, however, also authorize the issuance of a passport to a minor who is the subject of a custody dispute if compelling humanitarian or emergency reasons relating to the minor's welfare warrant the issuance of a passport.

Also included in the amendments is information regarding release of information about a minor's passport application to an objecting parent.

A Notice of Proposed Rule was published on October 3, 1995. Comments were requested, and none were received. This Final Rule is being re-published without change.

This rule is not exempt from E.O. 12866, but has been reviewed and found to be consistent with the objectives thereof. This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). In addition, this rule will not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended. Nor does this rule have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith.

List of Subjects in 22 CFR Part 51

Passports, Infants and children.

For the reasons set forth in the preamble, 22 CFR 51.27 is amended as follows:

PART 51—PASSPORTS

Subpart B—Application

1. The authority citation for section 51.27 continues to read as follows:

Authority: 22 U.S.C. 2658 and 3926.

2. Section 51.27 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 51.27 Minors.

* * * * *

(b) Execution of application for minors.

(1) A minor of age 13 years or above shall execute an application on his or her own behalf unless in the judgment of the person before whom the application is executed it is not desirable for the minor to execute his or her own application. In such case it must be executed by a parent or guardian of the minor, or by a person in loco parentis.

(2) A parent, a guardian, or person in loco parentis shall execute the application for minors under the age of 13 years. Applications may be executed by either parent, regardless of the parent's citizenship. Permission of or notification to the other parent will not be required unless such permission or notification is required by a court order registered with the Department of State by an objecting parent as provided in paragraph (d)(1) of this section.

(3) The passport issuing office may require a minor under the age of 18 years to obtain and submit the written consent of a parent, a legal guardian or a person in loco parentis to the issuance of the passport.

(c) Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute. At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.

(1)(i) When there is a dispute concerning the custody of a minor, a passport may be denied if the Department has on file a court order granted by a court of competent jurisdiction in the United States or abroad which: (A) Grants sole custody to the objecting parent; or, (B) Establishes joint legal cutody; or, (C) Prohibits the child's travel without the permission of both parents or the court; or, (D) Requires the permission of both parents or the court for important decisions, unless permission is granted in writing as provided therein. (ii) For passport issuance purposes,a court order providing for joint legal custody will be interpreted as requiring the permission of both parents. The Department will consider a court of

competent jurisdiction to be a U.S. state court or a foreign court located in the child's home state or place of habitual residence. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the child exist.

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been registered with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

Dated: February 6, 1996.

Ruth A. Davis,

Acting Assistant Secretary, Bureau of Consular Affairs.

[FR Doc. 96–3742 Filed 2–20–96; 8:45 am]

BILLING CODE 4710–06–M

Office of the Legal Adviser

22 CFR Parts 111, 112, and 133

[Public Notice 2332]

Repeal of Department of State Regulations on Removal of Alien Enemies, on World War II Reparations, and on Disposal of Foreign Surplus Property

AGENCY: Office of the Legal Adviser, Department of State.

ACTION: Final rule with request for comments.

SUMMARY: The Department of State is removing Parts 111, 112, and 133 of Title 22 of the Code of Federal Regulations. Part 111 relates to removal of alien enemies brought to the United States from other American republics. Part 112 relates to World War II reparations. Part 133 relates to disposal of surplus property in foreign areas under the Surplus Property Act of 1944. Parts 111 and 112 are obsolete and unnecessary. Part 133 is obsolete because of the repeal of the statutory authority and changes in the agencies having regulatory authority for the few remaining provisions; it is also unnecessary because of replacement statutory and regulatory authority on this subject.

DATES: Effective April 22, 1996. Comments are due on or before March 22, 1996.

ADDRESSES: Interested persons should send comments in writing and in duplicate to the Assistant Legal Adviser for Legislation and General Management, Office of the Legal Adviser, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Mary Beth West, Assistant Legal Adviser for Legislation and General Management, (202) 647–5154.

SUPPLEMENTARY INFORMATION: This rule repeals 22 CFR Parts 111 and 112, which relate, respectively, to removal from the United States of aliens brought into the United States from another American republic whose presence the Secretary of State determines to be prejudicial to the security or welfare of the Americas, and to acceptance of World War II reparations payments. The authority upon which Part III was based, Presidential Proclamation No. 2655, dated April 10, 1946 (3 CFR 1943–1948 Comp.), has been repealed. The reparations program under Part 112 has not been active for some time and is not expected to be resumed. This rule also repeals Part 133, which was issued to implement provisions of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1611–1646) intended to regulate the disposition of United States Government property abroad in the aftermath of World War II. Most provisions of that Act have been repealed and superseded by more general provisions on disposition of United States Government property under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 *et seq.*) or specific statutory authorities such as the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2141 *et seq.*). Superseding and remaining authorities are now the regulatory responsibility of agencies other than the Department of State.

The regulations which are the subject of the present rule are obsolete and unnecessary, dating from the World War II era. The regulations have not been used for many years. We believe, therefore, that the repeal of these regulations will be noncontroversial and that adverse comments will not be received. For that reason, it has been determined that the ''good cause'' exception from advance notice and comment rulemaking, found at 5 U.S.C. 553(d)(3), permits the direct implementation of this rule repealing those regulations with provision for post-promulgation comment instead.

Repeal of these regulations is in furtherance of the President's Regulatory Reinvention Initiative. Neither the rule, nor the regulations which it would repeal, are expected to have a significant impact on a substantial number of small entities when considered under the criteria of the Regulatory Flexibility Act.

The rule does not impose a Federal regulatory mandate on State, local, or tribal government entities under the Unfunded Mandates Act (P.L. 104–4) because it repeals regulations which themselves created no such mandate. In addition, this rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed by the Assistant Legal Adviser for Legislation and General Management and certified that it is in compliance with Executive Order 12778. This rule is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the objectives of that order.

List of Subjects

22 CFR Part 111

Aliens, Security measures.

22 CFR Part 112

War claims.

22 CFR Part 133

Surplus Government property.

PARTS 111, 112, AND 133—[REMOVED]

Accordingly, under the authority of 22 U.S.C. 2651a(4), 22 CFR Parts 111, 112, and 133 are removed.

Dated: February 7, 1996.

Mary Beth West,

Assistant Legal Adviser for Legislation and General Management.

[FR Doc. 96–3741 Filed 2–20–96; 8:45 am]

BILLING CODE 4710–08–M

AFRICAN DEVELOPMENT FOUNDATION

22 CFR Part 1504

Repeal of Superseded Regulations Covering Standards of Ethical Conduct for Employees of the African Development Foundation

AGENCY: African Development Foundation (''Foundation'').

ACTION: Final rule.

SUMMARY: The African Development Foundation is repealing its old conduct regulations for employees of the Foundation, which were superseded by the executive branch-wide Standards of Ethical Conduct and financial disclosure regulations. The Foundation is also issuing a residual cross-reference to the new provisions.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Magid, Designated Agency Ethics Official, or Tom Wilson, Alternate Designated Agency Ethics Official, African Development Foundation, 1400 Eye Street, N.W., 10th Floor, Washington, D.C. 20005. Telephone: (202) 673–3916.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published a final rule entitled ''Standards of Ethical Conduct for Employees of the Executive Branch'' (Standards). See 57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions for certain existing agency Standards of Conduct at 59 FR 4779–4780 and 60 FR 6390–6391. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct that apply to all executive branch personnel.

By this notice, the Foundation is repealing its old conduct regulations at 22 CFR part 1504 which have been superseded by the Standards found at 5 CFR part 2635 and by the OGE regulations at 5 CFR part 2634, Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture.

II. Repeal of Foundation Employee Responsibilities and Conduct Regulations

Because the Foundation's regulations on Employees Responsibilities and Conduct have been superseded by the newer executive branch standards of ethical conduct and financial disclosure regulations, 5 CFR parts 2634 and 2635, on the effective date of the final rule, the Foundation is repealing all of existing 22 CFR part 1504. To ensure that Foundation employees are on notice of the ethical standards and financial disclosure requirements to which they are subject, the Foundation is replacing old part 1504 with a new 5 CFR 1504.1 which cross-references 5 CFR parts 2634 and 2635.

III. Matters of Regulatory Procedure

Administrative Procedure Act

In accordance with the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)(3)), the Foundation has found that good cause exists for waiving as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to the rules and repeals. Public comment is unnecessary because these regulations merely revoke existing regulations which have been superseded in accordance with previously issued government-wide regulations. In addition, since these regulations relate to agency management and personnel they are exempt from notice and comment under 5 U.S.C. 553(a)(2).

Executive Order 12866

In promulgating this final rule the Foundation has adhered to the regulatory philosophy and the applicable principles of regulation set forth at section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule deals with Foundation organization, management and personnel matters and is therefore, not deemed ''significant'' under Executive Order 12866.

Regulatory Flexibility Act

The Foundation has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that these regulations will not have a significant impact on small business entities because they affect only Foundation employees.

Paperwork Reduction Act

The Foundation has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 22 CFR Part 1504

Conflict of interests, Government employees.

Dated: February 13, 1995.

Paul Magid,

General Counsel, African Development Foundation.

For the reasons set forth in the preamble, the African Development Foundation is revising 22 CFR part 1504 to read as follows:

PART 1504—EMPLOYEE RESPONSIBILITIES AND CONDUCT

§ 1504.1 Cross-references to employee ethical conduct standards and financial disclosure regulations.

Directors and other employees of the African Development Foundation are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, and the executive branch financial disclosure regulations at 5 CFR part 2634.

Authority: 5 U.S.C. 7301.

[FR Doc. 96–3744 Filed 2–20–96; 8:45 am]

BILLING CODE 6116–06–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

Navajo Nation, Hopi Tribe, and Crow Tribe Abandoned Mine Land Reclamation (AMLR) Plans

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

ACTION: Final rule; technical amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is making technical amendments to promote consistency with the codification that OSM has used for primacy States, OSM is changing the codification of the sections approving the AMLR plans and subsequent amendments for the Hopi Tribe and Crow Tribe and is creating sections for required amendments to the Navajo Nation, Hopi Tribe, and Crow Tribe AMLR plans. OSM is also making minor editorial changes.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: John Trelease, Office of Technology, Development, and Transfer, OSM, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone: (202) 208–2617.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with 30 CFR Part 884, OSM processes AMLR plans and amendments to these plans, which are submitted by the States and Indian tribes for OSM review and approval.

To promote consistency in codification of OSM's approvals of State and Indian Tribe AMLR plans and plan amendments and OSM-required plan amendments, OSM is amending the

Indian lands program provisions at Chapter VII, Subchapter E. OSM is also making minor editorial changes.

Specifically, OSM is adding sections to the provisions of the Indian lands program concerning the approval of amendments to the Crow Tribe AMLR plan and submittal of OSM-required amendments to the Navajo Nation, Hopi Tribe, and Crow Tribe AMLR plans, and is recodifying the existing sections accordingly. By recodifying existing information for the Hopi Tribe and Crow Tribe AMLR plan and plan amendments from 30 CFR 756.15, .16, and .17 to 30 CFR 756.16, .17, and .19; adding a section to contain information on required amendments to the Navajo National AMLR plan at 30 CFR 756.15; and creating new sections at 30 CFR 756.18 for required amendments to the Hopi Tribe AMLR plan and 756.20 for approval of amendments and 756.21 for required amendments to the Crow Tribe AMLR plan, OSM is being consistent with the codification it has used for primacy State plans, plan amendments, and required amendments to the plans.

II. Procedural Matters

1. Administrative Procedure Act

The minor revisions contained in this rulemaking are technical in nature. Accordingly, pursuant to 5 U.S.C. 553(b)(B), it has been determined that the notice and public comment procedures of the Administrative Procedure Act are unnecessary. For the same reason, it has been determined that, in accordance with 5 U.S.C. 553(d), there is good cause to make this rule effective on the date of publication in the Federal Register.

2. Executive Order 12866

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

3. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. This rule (1) does not preempt any State, Tribal, or local laws or regulations; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

4. National Environmental Policy Act

This rule has been reviewed by OSM, and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2 appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

5. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

6. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: February 8, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set forth in the preamble, title 30, chapter VII, subchapter E, part 756 of the Code of Federal Regulations is amended as set forth below:

PART 756—INDIAN TRIBE ABANDONED MINE LAND RECLAMATION PROGRAMS

1. The authority citation for part 756 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and Pub. L. 100–71.

2. Section 756.13 is amended by revising paragraph (b) to read as follows:

§ 756.13 Approval of the Navajo Nation's abandoned mine land plan.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248–5070.

3. Section 756.15 is revised to read as follows:

§ 756.15 Required amendments to the Navajo Nation's abandoned mine land plan.

Pursuant to 30 CFR 884.15, the Navajo Nation is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Navajo Nation's established administrative and legislative procedures, for submitting an amendment to the Navajo Nation plan.

4. Section 756.16 is revised to read as follows:

§ 756.16 Approval of the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe's Abandoned Mine Land Reclamation Plan as submitted in July 1983, and amended in March and May 1988, is approved. Copies of the approved Plan are available at the following locations:

(a) The Hopi Tribe, Hopi Abandoned Mine Land Program, Department of Natural Resources, Honahni Building, P.O. Box 123, Kykotsmovi, AZ 86039, Telephone: (520) 734–2441.

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248–5070.

5. Section 756.17 is revised to read as follows:

§ 756.17 Approval of amendments to the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe certification of completion of coal reclamation, as submitted on February 2, 1994, is approved effective June 9, 1994.

6. Section 756.18 is added to read as follows:

§ 756.18 Required amendments to the Hopi Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Hopi Tribe is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Hopi Tribe's established administrative and legislative procedures, for submitting an amendment to the Hopi Tribe plan.

7. Section 756.19 is added to read as follows:

§ 756.19 Approval of the Crow Tribe's Abandoned Mine Land Reclamation Plan.

The Crow Tribe's Abandoned Mine Land Reclamation Plan as submitted in 1982, and resubmitted in September, 1988 is approved. Copies of the approved Plan are available at the following locations:

(a) Crow Tribal Council, Crow Office of Reclamation, P.O. Box 159, Crow Agency, MT 59022.

(b) Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Room 2128, 100 East B Street, Casper, WY 82601–1918, Telephone: (307) 261–6555.

8. Section 756.20 is added to read as follows:

§ 756.20 Approval of amendments to the Crow Tribe's abandoned mine land reclamation plan.

Revisions to the following provisions of the Crow Tribe's Abandoned Mine Land Reclamation Plan, as submitted to OSM on the date specified, are approved.

9. Section 756.21 is added to read as follows:

§ 765.21 Required amendments to the Crow Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Crow Tribe is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Crow Tribe's established administrative and legislative procedures, for submitting an amendment to the Crow Tribe plan.

[FR Doc. 96–3669 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 906

[SPATS No. CO–001–FOR]

Colorado Regulatory Program

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

ACTION: Final rule; approval of amendment and removal of condition of program approval.

SUMMARY: The Secretary of Interior is announcing the approval of an amendment to the Colorado regulatory program (hereinafter referred to as the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the removal of the remaining condition of program approval. The Colorado revisions pertain to the recovery of costs and expenses, including attorney's fees, incurred in connection with administrative and judicial review proceedings under the Colorado program. The amendment revised the Colorado program to be consistent with SMCRA and the corresponding Federal regulations.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 672–5524.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, 906.16, and 906.30.

II. Proposed Amendment

By letter dated November 20, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO–675) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment in response to the condition of program approval at 30 CFR 906.11(mm). Colorado proposed to revise 2 CCR 407–2, Rules 5.03.6 and 5.03.6(4)(e), concerning costs, expenses, and attorney's fees.

OSM announced receipt of the proposed amendment in the December 7, 1995, Federal Register (60 FR 62789), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. CO–675–2). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 8, 1996.

III. Secretary's Findings

As discussed below, the Secretary, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Colorado on November 20, 1995, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Secretary approves the proposed amendment.

1. Rule 5.03.6, Awarding of Costs, Expenses, and Attorney Fees Incurred in Seeking an Award

Existing Rule 5.03.6 authorizes the Colorado Mined Land Reclamation Board (Board), under certain circumstances, to assess and award costs, expenses, and attorney fees to parties of Board proceedings resulting in Board decisions and orders or to parties of administrative proceedings under the Colorado Surface Coal Mining Reclamation Act. In response to the condition of original program approval at 30 CFR 906.11(mm)(1)(ii) (finding No. 4(k), 45 FR 82173, 82194, December 15, 1980), Colorado proposed to revise Rule 5.03.6 to specify that the costs, expenses, and attorney fees to be awarded to a requesting party are those incurred by the party seeking the award.

Section 525(e) of SMCRA allows for an award of a sum equal to the aggregate amount of all costs, expenses, and attorney fees determined by the Secretary of the Interior to have been reasonably incurred by a person for or in connection with his participation in administrative proceedings. In addition, the Federal regulations at 43 CFR 4.1295(b) require that an award may include all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award.

Proposed Rule 5.03.6 differs from 43 CFR 4.1295(b) only in that it does not specifically address expert witness fees. However, this is not a substantive difference because the ''costs and expenses'' requirement of the proposed rule includes such fees. For this reason, the Secretary finds that Colorado's proposed revision to Rule 5.03.6, which requires that awarded costs, expenses, and attorney fees be restricted to those incurred by the requesting party in seeking the award, is no less stringent than section 525(e) of SMCRA, and no less effective than the corresponding requirement of the corresponding Federal regulation at 43 CFR 4.1295(b). The Secretary approves the revised rule and removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(ii).

2. Rule 5.03.6(4), Awarding Costs, Expenses, and Attorney Fees From the Division to Administrative Proceeding Participants Other Than the Permittee

In response to the condition of original program approval at 30 CFR 906.11(mm)(2) (finding No. 4(k), 45 FR 82173, 82194, December 15, 1980), Colorado proposed to add newly-created paragraph (e) to Rule 5.03.6(4), which would allow appropriate costs and expenses, including attorneys' fees, to be awarded from the Colorado Department of Natural Resources, Division of Minerals and Geology (Division) to participants, other than the permittee or his representative, in ''administrative proceedings'' under the Colorado Surface Coal Mining Reclamation Act (Act).

The corresponding Federal regulation at 43 CFR 4.1294(b) allows appropriate costs and expenses, including attorneys' fees, to be awarded from OSM to participants, other than a permittee or his representative, in ''any proceeding'' under SMCRA. ''Any proceeding'' includes both administrative and judicial proceedings.

Proposed Rule 5.03.6(4)(e) differs from 43 CFR 4.1294(b) in that it restricts the awarding of costs, expenses, and attorneys' fees to those incurred in

administrative proceedings, rather than to those incurred in both administrative and judicial proceedings. However, Colorado's statutory language at section 34–33–128(4) of the Act, concerning judicial review, allows the court, at the request of any party to a proceeding under that section, to assess such costs and expenses against any party as the court deems just and proper. Therefore, proposed Rule 5.03.6(4)(e) and section 34–33–128(4) of the Act, taken together, allow for appropriate costs and expenses, including attorneys' fees, to be awarded from the Division to participants in both administrative and judicial proceedings under the Act.

For this reason, the Secretary finds that proposed Rule 5.03.6(4)(e), when considered along with section 34–33–128(4) of the Act, is consistent with and no less effective than the Federal regulation at 43 CFR 4.1294(b). The Secretary approves the revised rule and removes the condition of original program approval codified at 30 CFR 906.11(mm)(2).

3. No Colorado Counterpart Rules, Awarding Costs, Expenses, and Attorney Fees From the Division to Administrative Proceeding Participants Other Than the Permittee

On November 12, 1993 (administrative record No. CO–582), Colorado requested that OSM conduct an informal review regarding the sufficiency of Colorado's rules in addressing condition 30 CFR 906.11(mm). In a letter dated December 22, 1993 (administrative record No. CO–599), OSM notified Colorado that, upon further review and analysis, OSM determined that conditions 30 CFR 906.11(1) (i) and (iii) are invalid and not applicable to the Colorado program. For the reasons discussed below, the Secretary is now removing the conditions of original program approval codified at 30 CFR 906.11(mm)(1) (i) and (iii) that it placed on the Colorado program on December 15, 1980 (finding No. 4(k), 45 FR 82173, 82194).

a. *Awarding the costs and expenses regarding alleged discriminatory acts.* At 30 CFR 906.11(mm)(1)(i), OSM required Colorado to ''submit * * * fully implemented regulations containing provisions for * * * [c]osts and expenses regarding discriminatory acts, pursuant to 30 CFR Part 830, as in 43 CFR 4.1294(a)(2).''

However, State programs are not required to include counterparts to the employee protection provisions of 30 CFR Part 865 (formerly Part 830) and, as such, there is no need for a State provision allowing the award of costs and expenses incurred in connection with proceedings pursuant to these rules. Accordingly, the lack of a State counterpart provision in the Colorado permanent program to the Federal regulation at 43 CFR 4.1294 regarding employee protection is not inconsistent with the Federal regulatory program. For this reason, the Secretary removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(i).

b. *Right to appeal costs and expenses awarded in an administrative proceeding.* At 30 CFR 906.11(mm)(1)(iii), OSM required Colorado to ''submit * * * fully implemented regulations containing provisions for * * * the administrative appeal of a decision as in 43 CFR 4.1296.''

OSM has determined that condition 30 CFR 906.11(mm)(1)(iii) is inappropriate and not applicable to the Colorado permanent program because of the differences that exists between the Colorado and Federal administrative review processes. The Federal administrative review process consists of two tiers of review, which are set forth at section 525(e) of SMCRA. They consist of review by the Secretary of the Interior, and review under 43 CFR 4.1290 through 4.1296 of the Federal regulations, which consists of review of the Secretary of the Interior's decisions by either the Interior Board of Land Appeals (IBLA) or an administrative law judge. Conversely, the only level of administrative review and only administrative review body under the Colorado program, which is set forth at Rule 5.03.6, is the Colorado Mined Land Reclamation Board (Board). Thus, a State program counterpart to 43 CFR 4.1296 is unnecessary. For this reason, the Secretary removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(iii).

IV. Summary and Disposition of Comments

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

1. Public Comments

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

2. Federal Agency Comments

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

The U.S. Forest Service responded on December 15, 1995, that it had no comments on the proposed amendment (administrative record No. CO–675–3).

The U.S. Natural Resources Conservation Service responded on December 20 and 21, 1995, that it had no comments on the proposed amendment (administrative record No. CO–675–4).

The U.S. Army Corps of Engineers responded on December 27, 1995, that it had found the proposed amendment to be satisfactory (administrative record No. CO–675–5).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

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

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. CO–675–1). It did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. CO–675–1). Neither SHPO nor ACHP responded to OSM's request.

V. Secretary's Decision

Based on the above findings, the Secretary approves Colorado's proposed amendment as submitted on November 20, 1995. Because this amendment fully satisfies the requirements of the condition of program approval at 30 CFR 906.11(mm), the Secretary is also removing this condition.

The Secretary, as discussed in: finding No. 1, approves Rule 5.03.6, concerning awarding of costs, expenses, and attorney fees incurred in seeking an award and removes the condition of program approval at 30 CFR 906.11(mm)(1)(ii); and finding No. 2, approves Rule 5.03.6(4)(e), awarding costs, expenses, and attorney fees from the Division to administrative proceeding participants other than the permittee and removes the condition of

program approval at 30 CFR 906.11(mm)(2); and finding No. 3, removes the conditions of program approval at 30 CFR 906.11(mm)(l) (i) and (iii) because there are no requirements for State counterparts to the Federal regulations concerning (1) costs and expenses regarding discriminatory acts and (2) the administrative review process.

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

The Federal regulations at 30 CFR Part 906.11 and 906.15, codifying decisions concerning the Colorado program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

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

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 13, 1996.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, Title 30, chapter VII, subchapter T, part 906 of the Code of Federal Regulations is amended as set forth below:

PART 906—COLORADO

1. The authority citation for part 906 continues to read as follows:

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

§ 906.11 [Removed]

2. Section 906.11 is removed.

3. Section 906.15 is amended by adding paragraph (t) to read as follows:

§ 906.15 Approval of regulatory program amendments.

* * * * *

(t) The following rules, as submitted to OSM on November 20, 1995, are approved effective February 21, 1996:

Awarding of costs, expenses, and attorney fees incurred in seeking an award—Rule 5.03.6;

Awarding costs, expenses, and attorney fees from the Division of Minerals and Geology to administrative proceeding participants other than the permittee—Rule 5.03.6(4)(e).

[FR Doc. 96–3670 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 948

West Virginia Regulatory Program

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

ACTION: Final rule; Approval of amendment.

SUMMARY: OSM is approving with certain exceptions an amendment to the West Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment contains revisions to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) and the West Virginia Surface Mining Reclamation Regulations. The amendment is intended to make the West Virginia program consistent with SMCRA and the corresponding Federal regulations. Additional amendments will be required to bring the West Virginia program into full compliance with SMCRA.

The statutory revisions pertain to reorganization of the State regulatory authority, extension of the State Abandoned Mine Lands and Reclamation Act, definitions, surface mine reclamation inspector qualifications, approval to remove more than 250 tons of coal during prospecting, permit transfers, permit fees, premium payments for the Workers' Compensation Fund, Small Operator Assistance Program (SOAP), hydrologic protection, blasting schedules, preblast surveys, termination of underground mining permits, excess spoil fills, variances from approximate original contour, citizen complaint investigations, issuance of notices of violation, abatement times for notices of violation, civil penalty assessments for cessation orders that are abated within twenty-four hours, permit suspension or revocation, temporary relief, burden of proof, disclosure of ownership and control information, reinstatement of right to mine, permit renewal requirements, extensions to permitted areas, surface mining activities not subject to the Act, National Pollutant Discharge Elimination system (NPDES) permitting requirements, removal of

coal from existing waste piles, and environmental boards.

The revisions to State regulations concern applicability, definitions, ownership and control information, maps, operation plan, excess spoil disposal, new and existing structures, subsidence control plan, removal of abandoned coal waste piles, approved person, fish and wildlife resources, geologic information, transfer, assignment or sale of a permit, permit renewals and revisions, incidental boundary revisions, variances exemption for government financed highway or other construction, permit issuance, permit conditions, improvidently issued permits, haulroads, transportation and support facilities, intermittent or perennial streams, design, construction, certification, inspection and abandonment of sediment control and other water retention structures, permanent impoundments, blasting, fish and wildlife, revegetation, insurance, notice of intent to prospect, hydrologic balance, steep slope mining, inactive status approval, variance from approximate original contour, excess spoil disposal, contemporaneous reclamation, control of fugitive dust, utility installations, disposal of noncoal waste, backfilling and regrading underground mines, subsidence control, small operator assistance program, citizen actions, inspection frequencies, notices of violation, show cause orders, civil penalty determinations, civil penalty assessment procedures, civil penalty assessment rates, coal refuse certification, compaction requirements for coal refuse areas, design, construction and maintenance requirements for coal refuse impoundments, inspection, examination and reporting requirements for coal refuse impoundments, training and certification of blasters, and abandoned mine lands reclamation.

EFFECTIVE DATE: February 21, 1996. Approval dates of regulatory program amendments are listed in § 948.15(p).

FOR FURTHER INFORMATION CONTACT:

Mr. James C. Blankenship Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street East, Charleston, WV 25301, Telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background

SMCRA was passed in 1977 to address environmental and safety problems associated with coal mining. Under SMCRA, OSM works with States to ensure that coal mines are operated in a manner that protects citizens and the environment during mining, that the land is restored to beneficial use following mining, and that the effects of past mining at abandoned coal mines are mitigated.

Many coal-producing States, including West Virginia, have sought and obtained approval from the Secretary of the Interior to carry out SMCRA's requirements with their borders. In becoming the primary enforcers of SMCRA, these ''primary'' States accept a shared responsibility with OSM to achieve the goals of the Act. Such States join with OSM in a shared commitment to the protection of citizens from abusive mining practices, to be responsive to their concerns, and to allow them full access to information needed to evaluate the effects of mining on their health, safety, general welfare, and property. This commitment also recognizes the need for clear, fair, and consistently applied policies that are not unnecessarily burdensome to the coal industry—producers of an important source of our Nation's energy.

Under SMCRA, OSM sets minimum regulatory and reclamation standards. Each primacy State ensures that coal mines are operated and reclaimed in accordance with the standards in its approved State program. The States serve as the front-line authorities for implementation and enforcement of SMCRA, while OSM maintains a State performance evaluation role and provides funding and technical assistance to States to carry out their approved programs. OSM also is responsible for taking direct enforcement action in a primacy State, if needed, to protect the public in cases of imminent harm or, following appropriate notice to the State, when a State acts in an arbitrary and capricious manner in not taking needed enforcement actions required under its approved regulatory program.

Currently, there are 24 primacy states that administer and enforce regulatory programs under SMCRA. These states may amend their programs, with OSM approval, at any time so long as they remain no less effective than Federal regulatory requirements. In addition, whenever SMCRA or implementing Federal regulations are revised, OSM is required to notify the States of the changes to that they can revise their programs accordingly to remain no less effective than the Federal requirements.

Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981, Federal Register (46 FR 5915). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Nos. WV–888, WV–889 and WV–893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program that included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (referred to herein as ''the Act'', WVSCMRA § 22A–3–1 *et seq.*) and the West Virginia Surface Mining Reclamation Regulations (CSR § 38–2–1 *et seq.*). OSM approved the proposed revisions on durable rock fills on August 16, 1996, (60 FR 42437–42443) and the proposed revisions on bonding on October 4, 1995, (60 FR 51900–51918). The remaining proposed revisions are the subject of this notice.

The statutory revisions pertain to reorganization of the State regulatory authority, extension of the State Abandoned Mine Lands and Reclamation Act, definitions, surface mine reclamation inspector qualifications, approval to remove more than 250 tons of coal during prospecting, permit transfers, permit fees, premium payments for the Workers' Compensation Fund, SOAP, hydrologic protection, blasting schedules, preblast surveys, termination of underground mining permits, excess spoil fills, variances from approximate original contour, citizen complaint investigations, issuance of notices of violation, abatement times for notices of violation, civil penalty assessments for cessation orders that are abated within twenty-four hours, permit suspension or revocation, temporary relief, burden of proof, disclosure of ownership and control information, reinstatement of right to mine, permit renewal requirements, extensions to permitted areas, surface mining activities not subject to the Act, National Pollutant Discharge Elimination System (NPDES) permitting requirements, removal of coal from existing waste piles, and environmental boards.

The revisions to State regulations concern applicability, definitions, ownership and control information, maps, operation plan, excess spoil disposal, new and existing structures, subsidence control plan, removal of abandoned coal waste piles, approved person, fish and wildlife resources, geologic information, transfer, assignment or sale of a permit, permit revisions and renewals, incidental boundary revisions, permit conditions, improvidently issued permits, exemptions for government financed highway or other construction variances, permit issuance, haulroads, transportation and support facilities, intermittent or perennial streams, design, construction, certification, inspection and abandonment of sediment control and other water retention structures, permanent impoundments, blasting, fish and wildlife, revegetation, insurance, notice of intent to prospect, hydrologic balance, steep slope mining, inactive status approval, variance from approximate original contour, excess spoil disposal, contemporaneous reclamation, control of fugitive dust, utility installations disposal of coal mine waste, backfilling and regrading underground mines, subsidence control, small operator assistance program, citizen actions, inspection frequencies, notices of violation, show cause orders, civil penalty determinations, civil penalty assessment procedures, civil penalty assessment rates, coal refuse certification, compaction requirements for coal refuse areas, design, construction and maintenance requirements for coal refuse impoundments, and inspection, examination and reporting requirements for coal refuse impoundments, training and certification of blasters, and abandoned mine lands regulation.

OSM announced receipt of the proposed amendment in the August 12, 1993, Federal Register (58 FR 42903) and invited public comment on its adequacy. Following this initial comment period, WVDEP revised the amendment on August 18, 1994, and September 1, 1994, and May 16, 1995 (Administrative Record Nos. WV–933, WV–937, and WV–979B). OSM reopened the comment period on August 31, 1994 (59 FR 44953), September 29, 1994 (59 FR 49619), and July 5, 1995 (60 FR 34934), and held public meetings/hearings in Charleston, West Virginia on September 7, 1993, October 27, 1994, and May 30, 1995.

III. Director's Findings

Only those revisions of particular interest are discussed below. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions not discussed below contain language similar to the corresponding Federal regulations, concern nonsubstantive wording changes, revise cross-references and paragraph notations to reflect organizational changes resulting from this amendment, or concern program provisions for which there is no Federal counterpart and which do not adversely affect other aspects of the West Virginia program.

A. Proposed Revisions to the West Virginia Code (Including numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA)

1. § 22–1–4 Through 8 Division of Environmental Protection

The State has reorganized the Division of Environmental Protection under the Bureau of the Environment and abolished the Department of Commerce, Labor and Environmental Resources under West Virginia House Bill (H.B. 4030). Within the Bureau of Environment, Division of Environmental Protection, the State established the Office of Abandoned Mine Lands and Reclamation, and the Office of Mining and Reclamation. The Office of Abandoned Mine Lands and Reclamation is given the authority to administer and enforce the State's Abandoned Mine Lands and Reclamation Act. The Office of Mining and Reclamation is given the authority to administer and enforce the State's Surface Coal Mining and Reclamation Act (under § 22–1–7). The director is authorized to appoint a Chief of each office who is accountable and responsible for the performance of the duties, functions, and services of his or her office (§ 22–1–8(a)). The provisions also authorize the director of the division of environmental protection to employ legal counsel (H.B. 2523) (§ 22–1–6(d)(7)). The Director finds that the State regulatory authority continues to have authority under State laws to implement, administer, and enforce its State program. He is therefore approving the proposed revisions to WVSCMRA § 22–1–4 through 8. The Director is also taking this opportunity to remove the required amendment at 30 CFR 948.16(c)(1), since it refers to the creation of the Division of Mines and Minerals, which is now an obsolete designation.

2. § 22–2 Abandoned Mine Lands and Reclamation Act

West Virginia proposes to revise its statute at section 22–2–2 to reflect the extension of the abandoned land reclamation program and the collection of fees which support it to September 30, 2004. The Director finds that this revision is substantively identical to and therefore no less stringent than section 402(b) of SMCRA.

West Virginia is also amending § 22–2–4 to change the reference to Public Law 95–87 to read ''Surface Mining Control and Reclamation Act'', to change the reference to subdivision (3) to read subsection (c), to change the reference to section 404 of Public Law 95–87 to read section 402 of the Surface Mining Control and Reclamation Act, and to delete references to ''administrative and personnel expenses'' for the purposes of clarification. The Director finds that these revisions are consistent with the Abandoned Mine Land Reclamation Act of 1990 and satisfy 30 CFR 948.26(a), which is hereby removed.

The State is revising paragraph (c) by changing the ending date for abandoned mine land fund eligibility for surface mining sites where the surety became insolvent. The ending date for eligibility was changed from October 1, 1991, to November 5, 1990. Paragraph (c) is also revised by changing the reference to Public Law 95–87 to the Federal Surface Mining and Reclamation Act of 1977, as amended. The Director finds that the proposal is substantively identical to and therefore no less stringent than section 402(g) of SMCRA.

3. § 22–3–3 Definitions

a. *Operator:* The WVDEP proposes to define operator to mean any person who is granted or who should obtain a permit to engage in any activity covered by the WVSCMRA and any rule promulgated thereunder and any person who engages in surface mining or surface mining and reclamation operations, or both. The proposed definition states that the term operator shall also be construed in a manner consistent with the Federal program pursuant to SMCRA, as amended.

Section 701 of SMCRA defines operator to mean any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location. In support of the proposed definition the State submitted a policy statement stating that WVDEP would interpret ''operator'' to include all

persons who engage in surface mining or prospecting activities. This policy statement was accompanied by a legal opinion from the General Council for WVDEP which stated that the term ''operator'' as defined in the WVSCMRA applies to a person who intends to prospect or engage in coal exploration (Administrative Record No. WV–932). The Director therefore finds that the proposed definition of operator at § 22–3–3 of the WVSCMRA is no less stringent than the definition at section 701 of SMCRA and he is approving it.

b. *Surface mine, surface mining or surface mining operations:* The WVDEP proposes to revise § 22–3–3(u)(1) by inserting a semicolon between ''reclamation'' and ''in-situ'' and a comma between ''cleaning'' and ''concentrating''. Also, at subsection 3(u)(2), the exemption for permanent facilities not within the area being mined and not directly involved in the excavation, storage, or processing of coal has been removed from the definition. The Director finds that the revisions to the definition of ''surface mining operation'', which remove the exemption for certain permanent facilities and correct errors in punctuation, satisfy the requirements of 30 CFR 948.16(c)(2) and resolve the concerns which caused the Secretary not to approve the definition at 30 CFR 948.12(c) and 30 CFR 948.13(a). Accordingly, he is approving the proposed definition and removing the disapproval, set aside, and required amendment provisions at 30 CFR 948.12(c), 948.13(a), and 948.16(c)(2).

4. § 22–3–5 Surface Mining Inspectors and Supervisors

West Virginia proposes to change the probationary status for surface mining supervisors and inspectors from one year to six months. The Director has determined that this revision, for which there is no direct Federal counterpart, is within the administrative discretion of the regulatory authority, and is not inconsistent with the requirements of SMCRA or the Federal regulations.

5. § 22–3–7 Notice of Intent To Prospect

The State proposes to revise paragraph (f) to allow for the promulgation of regulations, the development of application forms and to require an application fee of $2,000 for prospecting operations intending to remove more than 250 tons of coal. While there is no direct Federal counterpart, the Director finds that proposed revisions are consistent with the Federal requirements for coal exploration permits at section 512 of SMCRA and are hereby approved.

6. § 22–3–8 Surface Mining Reclamation Permit

The State has deleted subsections 8(a) and 8(b), and renumbered the remaining subsections. The deleted subsections required coal mining operations in existence at the time of the Secretary's approval (1981) of the West Virginia program to obtain permits under the newly approved program. The Director finds that the deletion of these out-of-date provisions does not render the West Virginia program inconsistent with SMCRA or the Federal regulations.

The State proposes to revise paragraph (1) of this section to allow for the continued operation of a mine by the transferee pending approval of the transfer application, and subject to the ownership and control provisions at section 22–3–18(c). The Federal counterpart to this provision at § 506(b) of SMCRA does not refer specifically to permit transfers. However, it does allow a successor in interest to continue coal mining operations on the current permit while awaiting approval of the regulatory of its application for a new permit. The Director believes that allowing permit transfer applicants to mine while they await a decision on their application for transfer of permit is not inconsistent with the principles underlying § 506(b) of SMCRA, so long as the applicant is eligible for a permit § 22–3–18(c) (West Virginia's ownership and control provisions), and provides adequate bond. Furthermore, the opportunity for public comment will remain a meaningful one, since the regulatory authority may still ultimately deny the application for the transfer based on information obtained during the public comment period. Therefore, the Director is approving the provision. West Virginia proposes to increase the surface mining permit fee from $500 to $1,000 at paragraph (4). Also, as provided in paragraph (h), the State proposes to make compliance with the Workers' Compensation Program a requirement of permit approval. There are no direct Federal counterparts. The Director finds that these provisions are not inconsistent with the requirements of SMCRA or the Federal regulations.

7. § 22–3–9 Permit Application Requirements

West Virginia proposes to revise the eligibility requirements for its Small Operator Assistance Program (SOAP) at paragraph (b). The State is increasing the total annual production rate for SOAP eligibility from 100,000 to 300,000 tons of coal. In addition, the State has added language that identifies the services that are reimbursable under SOAP. These new services include engineering analyses and designs needed in the determination of probable hydrologic consequences, cross-section maps and plans, geologic drilling and statements of results of test borings and core samplings, preblast surveys, fish and wildlife protection and enhancement plans, and the collection of archaeological and historical information. The Director finds that WVSCMRA § 22A–3–9(b), as revised, is substantively identical to and, therefore, no less stringent than the corresponding SOAP provisions of section 507(c) of SMCRA.

At subsection 9(g), the State has added the word ''administratively'' in two locations to clarify that the provision pertains to administratively complete applications. The term ''administratively complete application'' is defined at CSR 38–2–2.9. The Director finds these changes to be consistent with section 510 of SMCRA, and no less effective than the use of the term ''administratively complete application'' at 30 CFR 773.13 concerning public participation in permit processing and the definition of the term ''administratively complete'' at 30 CFR 701.5.

8. § 22–3–9a Permit To Mine Two Acres or Less

The State has deleted (S.B. 579; June 7, 1991) this section which contains special provisions governing surface mining operations of two acres or smaller in size. Section 528(2) of SMCRA, which set forth the corresponding Federal provisions, was repealed pursuant to Section 201 of Public Law 100–34. Therefore, the Director finds that the proposed deletion will not render West Virginia's program less stringent than SMCRA. In addition, the Director finds that the deletion of WVSCMRA § 22A–3–9a eliminates the need for further action regarding the required amendments set forth at 948.16(c)(3), (4), (5) and (6), and the disapproval and set-aside set forth at 30 CFR 948.12(d) and 948.13(b), respectively, and he is, therefore, removing them.

9. § 22–3–13 Performance Standards

The State proposes to amend subparagraph (b)(10) to require that operators avoid acid or toxic-mine drainage by preventing or removing water from contact with toxic producing deposits, treating drainage, and casing, sealing or managing boreholes, shafts and wells to keep acid drainage from entering ground and surface waters. The Director finds that this proposal is substantively identical to and, therefore,

no less stringent than, the corresponding Federal statute at section 515(b)(10)(A) of SMCRA.

West Virginia proposes to revise subparagraph (b)(15) to require the mailing of the proposed blasting schedule to every resident within one-half mile of the blasting site, and to provide any resident or owner of a dwelling within one-half mile of any portion of the permit area the right to a preblast survey. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than, the corresponding Federal statute at section 515(b)(15) of SMCRA.

In addition, the State proposes to revise subparagraph (b)(16)(C) to provide that underground mining permits shall terminate if operations have not commenced within three years of the date of permit issuance. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than section 506(c) of SMCRA.

The State also proposes to revise subparagraph (b)(22) to require that rock to be used in durable rock fills not slake in water and not degrade to soil material. The Director finds that this proposal is substantively identical to and, therefore, no less effective than the corresponding Federal provision set forth at 30 CFR 816.73(b).

Finally, West Virginia proposes to revise paragraph (e) to allow the Director to promulgate rules that permit variances from approximate original contour. The Director finds that this proposal is consistent with that portion of section 515(e) of SMCRA which permits states with approved programs to allow variances from the requirements to return a steep slope area to its approximate original contour (AOC). Therefore, this revision is approved, but only to the extent that it applies to steep slope areas as defined at WVSCMRA § 22–3–13(d). In addition, the Director is requiring that West Virginia amend its program to limit such variances to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2).

10. § 22–3–15 Inspections

West Virginia proposes to revise paragraph (b)(1)(C) to require that monitoring equipment be installed, maintained and used consistent with WVSCMRA § 22–3–9 rather than WVSCMRA § 22–3–10 as currently stated. The Director has determined that this correction of a cross-reference will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations.

The State also proposes to delete the provision in paragraph (g) which provides that permittees, employees and inspectors are not to be held civilly liable for any injury sustained by a person accompanying an inspector on an inspection. The Director finds that this deletion, which resolves the concerns raised by OSM as set forth at 30 CFR 948.12(a) and 948.13(e), will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations. The Director is, therefore, removing the disapproval at 30 CFR 948.12(a), and the corresponding set aside at 30 CFR 948.13(e).

Finally, the State is deleting from paragraph (g) the provision that any person accompanying an inspector on an inspection shall be responsible for supplying any safety equipment required. There is no counterpart to this rule in the Federal program, and the Director finds that the deletion of this provision will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations.

11. § 22–3–17 Notice of Violation

West Virginia proposes to revise paragraph (a) of this section to make it mandatory to issue a notice of violation whenever any provision of WVSCMRA, the regulations promulgated pursuant thereto or a permit condition has not been complied with. In addition, the time set for initial abatement of a notice of violation is proposed to be changed from 15 to 30 days, and the maximum time allowed as a reasonable extension is changed from 75 to 60 days. The Director finds that these revisions are no less stringent than and are procedurally similar to section 521(a)(3) of SMCRA.

In paragraph (a), the State also proposes to delete the provision that exempts cessation orders that are released or expire within 24 hours after issuance from mandatory civil penalty assessment of seven hundred fifty dollars per day per violation. While there is no direct Federal counterpart, the Director finds that the deletion of this provision will not render the State's program inconsistent with the requirements of SMCRA or the Federal regulations.

The State proposes to revise paragraph (b) to allow the director to suspend or revoke a permit upon the operator's failure to show cause why the permit should not be suspended or revoked. In addition, if the permit is revoked, the proposal states that the commissioner shall initiate procedures to forfeit the operator's bond in accordance with rules promulgated by the Director. The Director finds that the proposals are consistent with the requirements of SMCRA at section 521(a)(4) and the Federal regulations at 30 CFR 843.13.

In addition, West Virginia proposes to recodify paragraph (d)(3) as new subsection (e) in order to clarify that appeal rights and procedures apply to all notices, orders and decisions of the commissioner, not just those relating to civil penalty assessments; and to recodify paragraph (d)(4) as new subsection (f) to clarify that temporary relief provisions apply to all enforcement actions and orders, but not to civil penalty assessments. The Director finds that the proposed recodification will not render the State's program inconsistent with the requirements of SMCRA or the Federal regulations, and satisfies the requirements of 30 CFR 948.16(c) (8) and (9), which are hereby removed.

West Virginia proposes to revise newly redesignated section (f) to provide that the filing of a request for an informal conference or formal hearing will not stay the execution of the order appealed from. The Director has determined that this proposal is substantively identical to and, therefore, no less stringent than the corresponding Federal provision at section 525(a) of SMCRA. Finally, the State proposes to revise section (f) to provide that where a request for temporary relief from an order for cessation of operations is filed, the commissioner shall issue his decision within 5 days of receipt of the request. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than the corresponding Federal provision at section 525(c) of SMCRA.

12. § 22–3–18 Permit Approval

The State proposes to revise paragraph (a) of this section to require the submission of a complete permit application before a decision is rendered, and to provide that the applicant has the burden of establishing that the application is in compliance with the program requirements. The Director finds that the proposed revisions are substantively identical to and, therefore, no less stringent than the corresponding Federal statute at section 510(a) of SMCRA.

The State has amended paragraph (c) to require that permit applications contain violation information on any surface mining operation owned or controlled by the applicant, rather than just those operations located in the state of West Virginia. The Director has determined that this revision is substantively identical to and, therefore,

no less stringent than the Federal law at section 510(c) of SMCRA.

In addition, section (c) has been revised to add that no permit may be issued upon a finding of a demonstrated pattern of willful violations of (in addition to West Virginia statute) other State or Federal programs implementing SMCRA of such a degree as to indicate an intent not to comply with the State statute or SMCRA. The Director finds these changes to be substantively identical to and no less stringent than section 510(c) of SMCRA and satisfies the concerns raised in 30 CFR 948.12(g) and 948.13(f) which are hereby removed.

Finally, West Virginia is proposing to revise, in section (c), the conditions under which a permit may be issued after revocation or forfeiture, to include situations where the violations which resulted in the revocation or forfeiture have not caused irreparable damage to the environment. While there is no direct Federal counterpart, the Director finds that the proposal is not inconsistent with the permit approval provisions of section 510 of SMCRA.

13. § 22–3–19 Permit Renewal and Revision Requirements

The State proposes to revise paragraph (a)(2) of this section by deleting the references to incidental boundary revisions, and adding a requirement that where a renewal application proposes to extend the operation beyond the original boundaries, the portion of the renewal application involving the new area is subject to the full permit application requirements. The State clarified the intent of the amendment by stating that the term ''full standards'' as used in WVSCMRA § 22–3–19(a)(2) means that for the area being added to the permit, the applicant must satisfy all current permitting requirements and is subject to all inspection and enforcement provisions and all performance standards. In other words, it would be treated like a new permit application (Administrative Record No. WV–932). Given this clarification, the Director finds the revisions to be substantively identical to and, therefore, no less stringent than section 506(d)(2) of SMCRA.

In addition paragraph (a)(4) is amended to add a two thousand dollar filing fee for any permit renewal for an active permit. The Director finds that this proposal is not inconsistent with the permit fee provisions in section 507(a) of SMCRA.

Finally, West Virginia proposes to revise section (b)(3) to provide that where the permittee desires to add new area to a permit, the original permit may be amended to include the new area, provided the application for the new area is subject to all the procedures and requirements applicable to applications for original permits. The Director finds that the revision is substantively identical to and, therefore, no less stringent than section 506(d)(2) of SMCRA.

14. § 22–3–22 Designation of Areas Unsuitable for Mining

West Virginia proposes to revise paragraph (b) of this section by deleting the word commissioner. As revised, the provision gives any person having an interest which is or may be adversely affected the right to petition the Director to have the area designated as unsuitable for mining or to have such designation terminated. The Director finds the proposal to be substantively identical to and, therefore, no less stringent than section 522(c) of SMCRA.

15. § 22–3–26 Surface Mining Operations Not Subject to the Act

The State proposes to delete paragraph (b) of this section which provided an exemption for the extraction of coal by a landowner engaged in construction. There is no direct Federal counterpart to this exemption and the Director finds that the proposed deletion will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations.

The exemption for government financed construction at paragraph (c) is being revised to provide that coal extraction incidental to federal, state, county, municipal, or other local government financed highway or other construction is exempt from the requirements of the Act. The Director finds that this provision is substantively identical to and, therefore, no less stringent than section 528(2) of SMCRA.

The State also proposes to delete paragraph (d) which provided an exemption for the extraction of coal affecting two acres or less. The Director finds this proposal to be consistent with the provisions of subsection 201(b) of Public Law 100–34 (effective June 6, 1987) which repealed the two-acre exemption originally set forth at section 528(2) of SMCRA and, therefore, the deletion of this provision will not render the State's rules inconsistent with the requirements of SMCRA or the Federal regulations. The Director is removing required amendment 30 CFR 948.16(c)(7) because with the deletion it is no longer relevant.

16. § 22–3–28 Special Permits for Abandoned Coal Waste Piles

West Virginia proposes to revise paragraph (d) of this section by deleting the word ''reprocessing'' and adding the word ''removal'' in order to clarify that the special permit is solely for removal of existing abandoned coal waste piles. The Director finds that this revision will not render the State program inconsistent with the requirements of SMCRA or the Federal regulations. The Director notes that the implementing rules are located at CSR 38–2–3.14(d) (see Finding B–9 below).

17. § 22–3–40 National Pollutant Discharge Elimination System (NPDES)

The State proposes to revise this section to require a filing fee for an NPDES permit application of $500 and a filing fee for a renewal application of $100. The Director finds that this proposal is not inconsistent with the general permit fee provisions of section 507(a) of SMCRA.

18. § 22B–1–4 through 12 Environmental Boards; General Policy and Purpose

The State is adding these provisions to the West Virginia program to establish the requirements under which environmental boards will operate. The Director finds that the provisions are not inconsistent with SMCRA section 503 concerning state programs. The Director notes that West Virginia's administrative hearings and appeals procedures are the same or similar to those in sections 514 and 525 of SMCRA. The Director is not approving language at section 22B–1–7(d) concerning allowing temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an ''unjust hardship.'' because the exception is inconsistent with SMCRA sections 514(d) and 525(c). In addition, the Director is requiring that West Virginia further amend § 22B–1–7(d) to be consistent with SMCRA sections 514(d) and 525(c).

Section 7(h) would allow the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action. In this respect, the provisions are less stringent than SMCRA section 515(b)(10) and less effective than the Federal regulations at 30 CFR 816.42, because both require discharges to be controlled or treated without regard to economic feasibility. Therefore, the Director is not approving this language

to the extent that it would allow the Board to decline to order an operator to treat or control discharges due to economic considerations. In addition, the Director is requiring that West Virginia further amend § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

19. § 22B–3–4 Environmental Quality Board

This new provision establishes the Environmental Quality Board's rule-making authority. Under WV S.B. 287, the provision authorizes the promulgation of procedural rules granting site specific variances for water quality standards for coal remining operations; providing minimum requirements for procedures for granting variances; prohibits granting variances without requirement of best available technology and best professional judgement; prohibits granting variance without demonstration of potential for improvement; and prohibits granting variance if degradation will result. The Director finds the provision is not inconsistent with SMCRA section 503 which provides that State programs must have the capacity to establish rules and regulations to carry out the purposes of SMCRA. The provision is also not inconsistent with section 301(p) of the Federal Water Pollution Control Act (33 U.S.C. 1311) which allows alternate effluent limitations to be established for coal remining operations. The Director notes that any such procedural rules that grant variances must be submitted to OSM for approval prior to their implementation.

20. § 22B–4 Surface Mine Board

The State has renamed the ''Reclamation Board of Review'' the ''Surface Mine Board'' and has established new requirements under which it operates. However, the amendment still requires that some board members represent outside interests. Therefore, the Director finds that these revisions do not materially affect the basis for OSM original determination of the Board's multiple interest status. Since the Board continues to represent multiple interests, its members are not ''employees'' within the meaning of section 517(g) of SMCRA and the Federal regulations at 30 CFR 705.5. Therefore, the Director finds the provisions of section 22B–4 to be not inconsistent with SMCRA section 503 concerning State programs, section 514 concerning decisions of regulatory authority and appeals, and 517(g) concerning financial interests of employees.

B. Proposed Revisions to the West Virginia Surface Mining Reclamation Regulations

1. CSR § 38–2–1.2 Applicability

West Virginia proposes to delete former paragraph (b) of this subsection. The Director finds that the deletion satisfies the disapproval codified at 30 CFR 948.12(h). 30 CFR 948.12(h) is hereby removed.

West Virginia proposes to revise paragraphs (c) and (d) by providing for the termination and reassertion of jurisdiction over a completed surface mining and reclamation operation. The Director finds that the amendments to paragraphs (c)(2) and (d) are substantively identical to and no less effective than the Federal regulations at 30 CFR 700.11(d)(1)(ii) and (2), respectively, concerning termination of jurisdiction. Subsection (c)(1) is less effective than the Federal counterpart at 700.11(d)(1)(i) to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program as a prerequisite to the termination of jurisdiction over an initial program site. In addition, the Director is requiring that the State further amend subsection (c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

2. CSR § 38–2–2 Definitions

a. Chemical treatment. The WVDEP proposes to define ''chemical treatment'' at subsection 2.20. This definition, among other applications, applies to the bond release provisions at CSR 38–2–12.2(e). CSR 38–2–12.2(e) prohibits bond release where chemical treatment is necessary to bring water discharged from or affected by the operation into compliance with effluent limitations or water quality standards as set forth in CSR 38–2–14.5(b). In effect, for example, under the proposed definition, bond would not be released under § 38–2–12.2(e) if water discharged from or affected by an operation is being actively treated by chemical reagents (such as sodium hydroxide or calcium carbonate) to bring a discharge into compliance. The bond would be released, however, if that same water were being treated, instead, by passive treatment systems (such as wetlands or limestone drains) to bring the discharge into compliance. The Director finds that the blanket exclusion of passive treatment systems from the definition of chemical treatment would render the West Virginia program less effective than the Federal regulations at 30 CFR 800.40(c)(3) concerning release of bond. 30 CFR 800.40(c)(3) provides that no bond shall be fully released until reclamation requirements of SMCRA are fully met. If treatment is necessary to maintain compliance, whether it be active or passive treatment, then the hydrologic protection standards of SMCRA section 515(b)(10) have not been fully met and bond cannot be released. The withheld bond helps assure that the required treatment will be continued. The fact that a treatment system is ''passive,'' and may not require human intervention as frequently as an ''active'' treatment system, does not diminish the need for assurance that treatment will be provided as long as is necessary to maintain compliance. Therefore, the Director is approving the definition of ''chemical treatment'' except to the extent that it would allow bond release where passive treatment systems are used to achieve compliance with applicable effluent limitations as discussed above. In addition, the Director is requiring that West Virginia further amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations. This finding does not mean that OSM is discouraging the use of mining and reclamation practices and the use of passive treatment systems that help minimize water pollution. On the contrary, when such practices and passive systems are designed into the approved operations and reclamation plans, they become an integral part of an effective program to minimize the formation of acidic or toxic drainage. However, when such passive systems are used to treat a discharge that would otherwise not be in compliance with effluent discharge limitations, such systems are, in effect, chemical treatment and bond release should not be granted. Passive treatment systems have not yet been proven effective for all parameters or on a long-term basis; their effectiveness appears to decrease over time. See OSM's directive TSR–10, Use of Wetland Treatment Systems for Coal Mine Drainage, for further information on this issue.

b. Impoundment or impounding structure; operator; prospecting; and sediment control or other water retention structure, sediment control or other water retention system, sediment pond. The Director finds the proposed definition of ''impoundment or impounding structure'' at CSR 38–2–2.66 is substantively identical to the Federal definition at 30 CFR 701.5 and is removing the required amendment codified at 30 CFR 948.16(f).

The State is adding the proposed definition of ''operator'' at CSR 38–2–2.81. This definition is substantively identical to the proposed statutory State definition of ''operator'' at § 22–3–3. See Finding A–3a above for a complete discussion. The Director finds the proposed definition of ''operator'' is consistent with the Federal definitions at section 701 of SMCRA and 30 CFR 701.5.

The Federal counterpart to the definition of ''prospecting,'' is the Federal definition of ''coal exploration'' at 30 CFR 701.5. The State and Federal definitions are different in that the Federal definition includes all data gathering without consideration of whether or not disturbance occurs. However, the Director finds the proposed definition of ''prospecting'' at CSR 38–2–2.95, while different, doesn't render the State program less effective than the Federal regulations, in light of the fact that CSR 38–2–13.1 contains all the appropriate requirements for a notice of intent to prospect where no disturbance is anticipated (see Finding B30 below). The Director is approving the definition of prospecting, and removing the required amendment at 30 CFR 948.16(nn). In addition, the Director notes an apparent inconsistency between the definition of prospecting at CSR 38–2–2.95, which excludes the gathering of environmental data without disturbance from the definition of prospecting, and the requirements for a notice of intent to prospect at CSR 38–2–13, which recognize that prospecting can include data gathering without disturbance. The State may want to correct this.

The Director finds the definition of ''sediment control or other water retention structure, sediment control or other water retention system, or sediment pond'' at CSR 38–2–108 to be consistent with the federal definition of ''siltation structure'' at 30 CFR 701.5 and can be approved, and the required amendment at 30 CFR 948.16(n) is partially satisfied.

3. CSR § 38–2–3.1 Application Information

New subsection 3.1(o) is added to authorize the grouping of ownership and control information by permittees who are so related by the submittal and maintenance of a centralized ownership and control file. Each file must contain required information at CSR § 38–2–3.1 (a), (c), (d), and (l) and be updated at least quarterly. However, the file must be complete and accurate during the time that an application is pending. There is no counterpart to the proposed language. However, the Director finds that the proposed provision is not inconsistent with the Federal requirements at 30 CFR 773.15 concerning review of permit applications and can be approved to the extent that all permit applicants which maintain centralized ownership and control files are also required to comply with all of the informational provisions contained in CSR 38–2–3.1.

4. CSR § 38–2–3.4 Maps

The State proposes to revise paragraph (d), subparagraphs (18), (22), (23), and (24) to require that the permit application identify each topsoil and noncoal waste storage area, each explosive storage and handling facility and the area of land to be affected within the proposed permit area according to the sequence of mining and reclamation. This revision is intended to satisfy the requirements of 30 CFR 948.16(t). Paragraph (d)(23) concerning explosive storage facilities has also been amended to read as follows: ''The location of any explosive storage and handling facility; which will remain in place for an extended period of time during the life of the operation.'' The Director finds that the amendments are substantively identical to and no less effective than the requirements of 30 CFR 780.14(b), and that 30 CFR 948.16(t) can be removed.

5. CSR § 38–2–3.6 Operation Plan

West Virginia proposes to revise paragraph (k) of this subsection to require the submission of a fugitive dust control plan. This revision is intended to satisfy the requirements of 30 CFR 948.16(s). The Director finds the amendment to be substantively identical to and no less effective than 30 CFR 780.15(a)(2) concerning a plan for fugitive dust control practices, and that 30 CFR 948.16(s) is satisfied and can be removed.

6. CSR § 38–2–3.7 Excess Spoil

The State proposes to delete the provision in paragraph (a) which gives the Director authority to approve alternative design requirements for excess spoil fills. This deletion satisfies the deficiency noted at 30 CFR 948.15(k)(3) and the requirement at 948.16(i) which can be removed.

7. CSR 38–2–3.8 New and Existing Structures and Support Facilities

Subsection 3.8(a) is amended to require that each permit application contain a description, plans, and drawings for each support facility to be constructed, used or maintained within the proposed permit area. The Director finds the proposed language to be substantively identical to and no less effective than 30 CFR 780.38 concerning support facilities.

Subsection (d) is amended by adding a provision that will provide for the permitting and bonding of a facility or structure that is to be shared by two or more separately permitted mining operations. The Director finds that the provision is substantively identical to and, therefore, no less effective than the Federal provision concerning shared facilities at 30 CFR 778.22 and can be approved.

8. CSR § 38–2–3.12 Subsidence Control Plan

The State proposes to revise paragraph (a), subparagraph (5) to require that measures be taken to mitigate or remedy material damage to structures due to subsidence in accordance with subsection 16.2(c) and (d) in addition to the existing requirement of meeting 16.2(a) concerning surface owner protection. While there is no direct Federal counterpart to this proposal, the Director finds the proposed revisions to be consistent with the Federal requirements at 30 CFR 784.20(b) concerning subsidence control plans. The State also proposes to delete the phrase in paragraph (d), subparagraph (2) which does not require an identification of measures to be taken to protect structures when the applicant demonstrates the right to subside without liability. This revision is consistent with the 1992 Energy Policy Act, which added section 720 to SMCRA and requires repair or compensation by the operator for material damage to structures caused by subsidence regardless of any ''right to subside.''

9. CSR § 38–2–3.14 Removal of Abandoned Coal Waste Piles

The State proposes to revise paragraph (a) of this subsection which allows the State to issue a special permit solely for the removal of existing abandoned coal processing waste piles.

The added language requires that if the average quality of the refuse material can be classified as coal using the BTU standard in ASTM D 388–88, a permit application which meets all applicable requirements of § 38–2–3 shall be required. This revision is intended to satisfy the deficiency of 30 CFR 948.15(k)(4). The Director finds the proposed language is consistent with the Federal requirements at 30 CFR 773.11 concerning requirements to obtain permits and can be approved, and that 30 CFR 948.15(k)(4) is satisfied.

10. CSR § 38–3.15 Approved Person

West Virginia proposes to revise its approved person requirements in this subsection. The State is proposing to allow approved persons to certify associated facilities. It also proposes to require the submission of a registration or license in addition to a resume. Finally, it proposes to delete the provisions which allow the director to require a person to requalify for ''approved person'' status, and to suspend or withdraw ''approved person'' status. Although there are no Federal counterparts, the Director finds the proposed changes are not inconsistent with SMCRA and the Federal regulations concerning requirements for permits and permit processing, since the State has retained the provision, at subsection 3.15(a), which states that ''approved person'' may only be designated by the regulatory authority where the WVSCMRA does not otherwise prohibit such designations.

11. CSR § 38–2–3.16 Fish and Wildlife Resources

The State proposes to revise paragraph (a) to this subsection deleting the word ''approval''. Under the revised provision, the regulatory authority will provide only for coordination of review of permits where such coordination is appropriate pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). The Director finds the proposed deletion does not render the West Virginia program less effective than 30 CFR 780.16 concerning fish and wildlife information.

12. CSR § 38–2–3.25 Transfer, Assignment or Sale of Permit Rights

The State proposes to revise paragraph (a), subparagraph (4) of this subsection to provide that the approval of a transfer application may be granted in advance of the close of the public comment period, provided that the Director can immediately withdraw approval if information is made available as a result of public comment that would preclude approval. There is no direct Federal counterpart to the proposed language. The Federal regulations at 30 CFR 774.17(b) provide that an applicant for approval of the transfer, assignment, or sale of permit rights shall (at (b)(2)) advertise the filing of the application and identify where written comments may be sent. The State counterpart to the notice requirements of 30 CFR 774.17(b)(2) is CSR 38–2–3.25(a)(3). While the Federal requirements at 30 CFR 774.17(b)(2) require public notice, they do not prohibit application approval prior to the end of the public comment period. The State proposal provides the regulatory authority with reasonable flexibility to promptly conclude approvals of transfer, assignment or sale of permit rights while also assuring that public comment is considered and in those cases where public comment presented information that would preclude approval, the State can immediately withdraw approval. The Director finds that the proposed language is not inconsistent with the intent of 30 CFR 774.17 concerning transfer, assignment, or sale of permit rights and can be approved. See Finding A6, above for the Director's approval of the statutory provision at § 22–3–8 concerning permit transfers.

Paragraph (a)(4) is also amended to add reference to subsection ''3.32(d)(7)'' (formerly subsection 3.31) which requires a finding by the State that the applicant has paid all reclamation fees from previous and existing operations. The Federal regulations at 30 CFR 774.17(d)(1) provide that an application for a transfer, assignment or sale may be granted where the applicant is eligible to receive a permit in accordance with 30 CFR 773.15(b) and (c). The State counterpart to 30 CFR 774.17(d)(1) is contained at CSR 38–2–3.25(a)(4).

This paragraph requires that applicants be eligible for permits in accordance with CSR 38–2–3.32(c), which is the State counterpart to 30 CFR 773.15(b). However, subsection 3.25(a)(4), as proposed, adds a cross-reference to only one portion of the State's counterpart to 30 CFR 773.15(c), namely, subsection 3.32(d)(7), pertaining to payment of reclamation fees. The State has argued, and the Director agrees, that the other findings contained in subsection 3.32(d) (30 CFR 773.15(c)) need not be made during the review of an application for transfer, assignment or sale since these findings relate to the issuance of the original permit, and should, therefore, remain valid. However, the finding at subsection 3.32(d)(7), pertaining to payment of reclamation fees, must be made, since it relates specifically to the applicant for transfer, assignment or sale. Therefore, the Director finds that the additional reference to subsection 3.32(d)(7) renders the State's program no less effective than the Federal regulations at 30 CFR 774.17(d)(1) and can be approved.

The State also proposes to revise this subsection by revising paragraph (c) and by adding paragraphs (d) and (e). These requirements provide that permit assignments (operator reassignments) be advertised, contain the ownership and control information required by Subsection 3.1 and subcontractors be subject to the eligibility requirements of Subsection 3.32. This revision is intended to satisfy the requirements of 30 CFR 948.16(v). Although there is no direct Federal counterpart, the Director finds the added language is no less effective than 30 CFR 774.17, and that 30 CFR 948.16(v) is satisfied can be removed.

13. CSR 38–2–3.26 Ownership and Control Changes

The language of this subsection is new and governs the reporting of name changes, replacements, and additions to the ownership and control information for any surface mining operation or permittee. While there is no direct Federal counterpart to the proposed language, the Director finds that the proposed language is not inconsistent with 30 CFR 778.13 concerning identification of interests and 778.14 concerning violation information and can be approved.

14. CSR 38–2–3.27(a) Permit Renewals and Permit Extensions

The WVDEP proposes to add a provision which will allow the Director to waive the requirements for permit renewal if the permittee certifies in writing that all coal extraction is completed, that all backfilling and regrading will be completed within 60 days prior to the expiration date of the permit and that an application for Phase I bond release will be filed prior to the expiration date of the permit. The proposal also provides that failure to complete backfilling and grading within 60 days prior to the expiration date of the permit will nullify the waiver. Finally, operations granted inactive status are also subject to permit renewal requirements. The Director finds this provision to be consistent with and no less effective than 30 CFR 773.11 which provides that a permittee need not renew the permit if no surface coal mining operations will be conducted under the permit and solely reclamation activities remain to be done.

15. CSR § 38–2–3.28 Permit Revisions

The State proposes to revise paragraph (b) in this subsection to require that each application for a permit revision be reviewed by the director to determine if an updated probable hydrologic consequences determination (PHC) or cumulative hydrologic impact assessment (CHIA) is needed. The Director finds the proposed revisions are substantively identical to and, therefore, no less effective than the Federal regulations at 30 CFR 780.21(f)(4) concerning PHC determinations.

The State also proposes to revise paragraph (c) to give the Director the authority to require reasonable revision of a permit at any time and to delete the provision which only required a revision to assure adequate protection of the environment or public health and safety. The revisions also require notice to the permittee of the need for revisions and reasonable time for compliance. The Director finds that the proposed revisions are similar to and no less effective than the Federal regulations at 30 CFR 774.11(b) concerning review of permits. These revisions satisfy the deficiency at 30 CFR 948.15(k)(5) and the requirements of 948.16 (j) and (w). 30 CFR 948.16 (j) and (w) are hereby removed.

16. CSR § 38–2–3.29 Incidental Boundary Revisions (IBRs)

West Virginia proposes to revise its incidental boundary revision (IBR) requirements in this subsection. The revisions in paragraph (a) provide that IBRs will be limited to minor shifts or extensions into non-coal areas or areas where coal extraction is incidental to or of only secondary consideration of the intended purpose of the IBR. IBRs will not be granted to abate a violation for encroachment beyond the original permit boundaries, unless an equal amount of area is deleted from the permitted area. Paragraph (b) is revised to allow IBRs for underground mines to be larger than 50 acres when an applicant demonstrates the need for a larger IBR. Also, applications for an IBR must be accompanied by an adequate bond, a map showing the IBR area and a reclamation plan for the area of the IBR. The State proposes to delete subparagraph (6) which provides that all provisions of the IBR which differ from the original permit meet the requirements of the Act and regulations, except as provided in this subsection. Finally, the State proposes to add paragraph (e) which gives the Director the authority to require the publication of an advertisement that provides for a ten-day public comment period for an IBR application.

There is no definition for ''incidental boundary revisions'' contained in either SMCRA or the Federal regulations. However, the Director notes that under the proposed language IBR's will not be authorized for surface or underground operations in cases where additional coal removal is the primary purpose of the revision. Therefore, the Director finds the proposed amendments to be consistent with the principal intent of sections 511(a)(3) of SMCRA and 30 CFR 774.13(d) which pertain to incidental boundary revisions.

17. CSR § 38–2–3.30 Variances

The State proposes to revise its variance requirements at paragraphs (b), (c), (d) and (e) of this subsection. These paragraphs set forth requirements for granting variances from contemporaneous reclamation. These revisions are intended to satisfy the requirements at 30 CFR 948.16(x). The Director finds the proposed language is substantively identical to and no less effective than 30 CFR 785.18 concerning variances for delay in contemporaneous reclamation requirements in combined surface and underground mining activities. The Director also finds the revisions do satisfy the requirements at 30 CFR 948.16(x), which is hereby removed.

18. CSR 38–2–3.31(a) Exemption for Government Financed Highway or Other Construction

The WVDEP proposes to revise its rules to allow exemptions from the requirements of the WVSCMRA for county, municipal or other local government-financed highway or other construction. The Director finds this amendment to be consistent with and no less effective than the Federal definitions of ''government financing agency'' and ''government-financed construction'' at 30 CFR 707.5.

19. CSR § 38–2–3.32 Permit Findings

The State proposes to delete the provision in this subsection which requires the WVDEP to use and update ownership and control information from surrounding States in the issuance of permits. While there is no direct counterpart to the language that is being deleted, the Director finds the deletion does not render the West Virginia program less effective than the requirements of 30 CFR 773.15(b) concerning review of violations. The West Virginia program continues to provide for the review of outstanding violations at CSR § 38–2–3.32 (b) and (c).

20. CSR § 38–2–3.33 Permit Conditions

The State proposes to delete subsection (i) concerning an annual submittal of information required at § 38–2–3.1. There is no direct Federal counterpart to the deleted language. The Director finds the proposed deletion does not render the West Virginia program less effective than 30 CFR 773.17 concerning permit conditions. The West Virginia program continues to retain at CSR 38–2–3.33(h) a counterpart to 30 CFR 773.17(i) concerning notification requirements following cessation orders.

21. CSR 38–2–3.34 Improvidently Issued Permits

The WVDEP proposes to amend paragraph (b) by inserting the phrase ''in paragraph (b) of subsection 3.32 of this section.'' This amendment identifies where in the West Virginia program the violations review criteria are located. The Director finds this change to be consistent with and no less effective than 30 CFR 773.20(b)(1)(i).

Subparagraph (b)(3) has been amended by deleting the existing language and adding in its place language that is substantively identical to and no less effective than 30 CFR 773.20(b)(1)(iii).

New subparagraph (b)(4) has been added to provide that a permit shall be determined to have been improvidently issued when the permittee had a permit revoked or bond forfeited and has not been reinstated, or the permittee was linked to a permit revocation or bond forfeiture through ownership or control, at the time the permit was issued and an ownership or control link between the permittee and the person whose permit was revoked or whose bond was forfeited still exists, or when the link was severed the permittee continues to be responsible for the permit revocation or bond forfeiture. Although there is no direct Federal counterpart, the Director finds the added language to be consistent with the definition of ''violation notice'' at 30 CFR 773.5, which definition includes notices of bond forfeiture, with 30 CFR 773.20 concerning improvidently issued permits.

Paragraph (c) is amended to add ''permit revocation or a bond forfeiture'' to the list of circumstances that can cause a finding that a permit was improvidently issued. While there is no direct Federal counterpart, the Director finds the added language to be consistent with the definition of ''violation notice'' at 30 CFR 773.5 and with 30 CFR 773.20(a)(1).

New subparagraph (d)(1)(E) is added to the list of circumstances that could prevent an automatic suspension or rescission of a permit. Under subparagraph (d)(1)(E), a permit would not be automatically suspended or revoked if the permittee or other person responsible for the permit revocation or bond forfeiture has been reinstated, pursuant to section 18(c) of the WVSCMRA. While there is no direct Federal counterpart, the Director finds the added language to be consistent with 30 CFR 773.21(a) concerning automatic suspension or rescission of permits.

West Virginia proposes to amend paragraph (f) of this subsection to change the cross reference in that paragraph to subsection ''(e),'' Section 17 of WVSCMRA. The Director finds the change does not render the West Virginia program less effective than 30 CFR 773.20(c)(2) concerning appeals of suspensions or rescissions of permits determined to have been improvidently issued.

Paragraph (g) is being revised to clarify that the term ''permit issuance'' also includes permit transfers, assignments, or sales of permit rights, as well as revisions for ownership and control purposes. While there is no direct Federal counterpart, the Director finds the added language is not inconsistent with 30 CFR 773.15 concerning review of permit applications.

22. CSR § 38–2–4 Haulageways, Roads, and Access Roads

West Virginia proposes to revise all of its haulroad regulations at Section 4. The new haulroad and access road requirements provide for a road classification system, plans and specifications, stream crossings, standards for infrequently used roads, construction standards, drainage design standards, performance standards, maintenance standards, reclamation standards, primary road standards and certification. In addition, Section 4 contains design, construction, maintenance and abandonment requirements for other transportation facilities.

a. § 38–2–4.1 (a) Road Classification System. The WVDEP proposes to include haulageways and access roads under its road classification system, and is defining ''primary road.'' The Director finds these amendments to be substantively identical to and no less effective than 30 CFR 816.150(a) concerning road classification system, and 30 CFR 816.150(a)(2) concerning the definition of ''primary road.''

b. § 38–2–4.2 Plans and Specifications. These amendments set for the requirements for each road to be constructed, used, or maintained within the permit area. The provisions specify that road designs are to be certified as meeting the requirements of the WVSCMRA and implementing rules. The WVDEP is also reorganizing its rules by deleting the title ''4.3 Stream Crossings'' and designating paragraph (a) of the deleted subsection 4.3 as paragraph (b) of subsection 4.2. This reorganization is intended to clarify that CSR 38–2–4.2(b) applies to all stream crossings, and is not limited to only roads in stream channels. Under the proposed revisions, CSR 38–2–4.2(b) applies to all roads whether they are within or crossing a stream. The Director finds the proposed provisions to be consistent with 30 CFR 780.37(a) concerning road systems; plans and drawings to the extent that the provisions pertain to all roads, whether they are within or crossing a stream. The Director notes that 30 CFR 780.37(a) cross references the Federal regulations at 30 CFR 816.150(d)(1) (concerning the prohibition against locating a road in the channel of a stream), and this in turn cross-references other Federal hydrologic protection rules. The State language does not contain a similar cross references in CSR 38–2–4.2(b). The Director believes, however, that a lack of such cross references does not render the State program less effective. The State hydrologic protection standards apply regardless of whether or not they are cross-referenced.

c. § 38–2–4.3 Existing Haulageways or Access Roads. This subsection provides that where it can be demonstrated that reconstruction of existing haulageways or access roads to meet the required design, construction, and environmental protection standards of the West Virginia program would result in greater environmental harm, such reconstruction may be exempt from the standards at subsection 4.5(a)(1) and (2), and subsection 4.6(a)(2)(A) and (b), where the sediment control requirements of CSR 38–2–5 can otherwise be met. The provisions in the State program contain grade requirements for roads. Since the Federal regulations contain no specific road grade requirements, for roads. Since the Federal regulations contain no specific road grade requirement but merely require, at 30 CFR 816.150(c), that designs include appropriate grade limits, the Director finds these provisions to be consistent with and no less effective than 30 CFR 780.37(a) and 816.150(c) concerning plans and drawings.

d. § 38–2–4.4 Infrequently Used Access Roads. This provision requires that infrequently used access roads be designed to ensure environmental protection appropriate for their planned duration and use, and be constructed in accordance with current prudent engineering practices and any necessary design criteria established by the Director. A statement has been added to clarify that prospecting roads are to be designed, constructed, maintained, and reclaimed in accordance with subsection 13.6 which governs prospecting roads. Cross references have also been revised. The Director finds the proposed amendments to be consistent with and no less effective than 30 CFR 816.150(c) concerning design and construction limits and establishments of design criteria.

Subsection 4.4 is also revised to provide that roads constructed for and used only to provide for infrequent service to facilities used in support of mining and reclamation operations may be exempt from all haulroad requirements in CSR 38–2–4, except for subsections 4.2, 4.3, 4.5(a)(1), 4.5(b), 4.6(a), 4.7, and 4.8. These ''infrequently used access roads'' include all roads defined as ''ancillary roads'' under 30 CFR 816.150(a)(3). Under the Federal regulations, ancillary roads must comply with all requirements contained in 30 CFR 816.150. To be consistent with the Federal regulations, the State program must require that all ''infrequently used access roads'' comply with the State program counterparts to 30 CFR 816.150. However, subsection 4.4, as proposed, would exempt infrequently used access roads from the requirements of subsection 4.9, which is the State program counterpart 30 CFR 816.150(f) pertaining to reclamation of roads. Therefore, the Director is not approving subsection 4.4 to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9. The Director is also requiring the State to amend its program to require that all infrequently used access roads comply with CSR 38–2–4.9.

e. § 38–2–4.5 Construction. This provision sets forth the grade limits for the construction of haulageways or access roads and the tolerance standards for grade measurements and linear measurements. While there are no direct Federal counterparts, the Director finds these amendments to be consistent with 30 CFR 816.150(c), which requires that designs for roads contain appropriate grade limits.

f. § 38–2–4.6 Drainage Design. These amendments set forth the standards for all drainage designs of haulageways or access roads. The amendments also specify that culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation and the weight of the vehicles using the road. While there are no Federal counterparts which apply to all roads, the Director finds these amendments to be consistent with 30 CFR 816.150(c), which requires that road designs contain plans for surface drainage control, and 30 CFR 816.151(d) concerning drainage control for primary roads.

g. § 38–2–4.7 Performance Standards. These amendments are intended to set forth the performance standards for the location, design, construction, reconstruction, use, maintenance, and reclamation of roads. The Director finds the proposed amendments to be no less effective than 30 CFR 816.150(b) concerning performance standards for roads. The proposed changes governing sediment storage volume and detention time as applied to drainage from roads are intended to clarify that the regulatory authority may approve lesser storage values than 0.125 acre/feet if compliance with the applicable effluent limits and the general performance standards for roads can be achieved. OSM conducted a study of West Virginia's 0.125 acre/feet standard and determined that its application in West Virginia does not render the State program less effective than the Federal regulations at 30 CFR 816.46(c)(1)(iii) (Administrative Record Number WV–890). The study did not address the adequacy of lesser storage values. However, so long as the end result is that applicable effluent limits are not exceeded, West Virginia may allow the use of lesser storage values. Therefore, the Director finds that the proposed language, which continues to require compliance with the applicable effluent limitations and performances standards for roads and providing the regulatory authority with reasonable flexibility in implementing the West Virginia program, does not render the West Virginia program less effective than the Federal regulations at 30 CFR 816.46(c)(1)(iii) concerning siltation structures.

h. § 38–2–4.8 Maintenance. These amendments provide that roads shall be maintained to meet the West Virginia performance standards for roads and any additional standards specified by the State. Roads that are damaged by catastrophic events shall be repaired as soon as is practicable. The Director finds these amendments to be substantively identical to and no less effective than 30 CFR 816.150(e) concerning maintenance.

i. § 38–2–4.9 Reclamation. These amendments set forth the performance standards for roads that are not to be retained under the approved postmining land use. With the exception of subsection 4.9(e), the Director finds the amendments to be substantively identical to and, therefore, no less effective than 30 CFR 816.150(f)(1–4), and (6), concerning reclamation of roads. Subsection 4.9(e) contains drainage and culvert requirements for road abandonment. While there are no direct Federal counterparts, the Director finds these requirements to be consistent with and, therefore, no less effective than the requirement to protect the natural drainage contained in 30 CFR 816.150(f)(5).

j. § 38–2–4.10 Primary Roads. These amendments set forth the performance standards for primary roads. The Director finds these amendments to be substantively identical to and, therefore, no less effective than 30 CFR 816.151 concerning primary roads.

k. § 38–2–4.11. Support Facilities and Transportation Facilities. These amendments set forth the requirements for support and transportation facilities such as railroad loops, spurs, sidings, surface conveyor systems, chutes, and aerial tramways ''which are under the control of the permittee.'' The Director is concerned that the phrase ''which are under the control of the permittee'' could be interpreted to exclude from these requirements certain support facilities which are within the definition of ''surface coal mining operations'' at 30 CFR 700.5. Therefore, the Director is approving this amendment only to the extent that it does not exclude facilities that are included within the definition of ''surface coal mining operations'' at 30 CFR 700.5.

l. § 38–2–4.12. Certification. This provision requires that, upon completion of construction, all primary roads for which design criteria were approved as part of the permit shall be certified. Where the certification statement for a primary road indicates a change from design standards or construction requirements in the approved permit, such changes must be documented in as-built plans and submitted as a permit revision. The Director finds the proposed language to be consistent with and no less effective than 30 CFR 816.151(a) concerning certification, and 30 CFR 774.13 concerning permit revisions.

This subsection also requires that all roads used for transportation of coal or spoil, and which are constructed outside the permitted coal extraction area shall be certified before they are used for such transportation. Finally, any roads within the coal extraction area which are constructed concurrently with progress of mining activities shall be certified in increments of 1,000 linear feet as measured from the active pit. While there are no Federal counterparts to these two proposals, the Director finds that they are consistent with 30 CFR 780.37(b) and 816.151(a).

23. CSR § 38–2–5.2 Intermitteent or Perennial Streams

The State proposes to revise this subsection to provide that before the director can approve any mining within 100 feet of an intermittent or perennial stream, the director must find that such activities will not cause or contribute to the violation of applicable State or Federal water quality standards. The Director finds that the amendment satisfies 30 CFR 948.16(aa) and can be approved. 30 CFR 948.16(aa) is hereby removed.

24. CSR § 38–2–5.4 Sediment Control

West Virginia proposes to revise paragraph (a) of this subsection to make its sediment control requirements applicable to other water retention structures, and it is deleting all references to on-bench sediment control systems. The State has also deleted the reference to the design, construction and maintenance criteria in the Technical Handbook. The Director finds that this revision satisfies the requirements of 30 CFR 948.15(k)(6) and 30 CFR 948.16(n) and can be approved. The required amendment at 30 CFR 948.16(n) is hereby removed.

Paragraph (b) is revised to make its design and construction requirements applicable to sediment control or other water retention structures used in association with the mining operation. The State has deleted references to on-bench sediment control structures. The Director finds this deletion is consistent with the deletion at paragraph 5.4(a), and does not render the West Virginia program less effective than the Federal regulations at 30 CFR 780.25, 816,45, 816.46 and 816.49.

Subparagraph (b)(12) is revised to require that foundation investigations and any necessary laboratory testing be performed to determine foundation stability design for impoundments meeting the size or other criteria of 30 CFR 77.216(a). This revision satisfies the requirement at 30 CFR 948.16(pp) and can be approved, and 30 CFR 948.16(pp) can be removed.

Subparagraph (b)(13) has been revised to require that all sediment control and other water retention structures be certified in accordance with the design requirements of the Act and regulations and other design criteria established by the Director. The Director finds the proposed language to be consistent with and no less effective than 30 CFR 780.25 concerning reclamation plans for siltation structures, impoundments, banks, dams, and embankments.

West Virginia proposes to revise paragraph (c) to make the requirements of that paragraph applicable to all embankment type sediment control or other water retention structures, including slurry impoundments. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(qq) and can be approved. 30 CFR 948.16(qq) is hereby removed.

Subparagraph (c)(3) is revised to require the installation of cutoff trenches during embankment construction to ensure stability. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(rr) and can be approved. 30 CFR 948.16(rr) is hereby removed.

Subparagraph (c)(4) is revised to require prompt notification of the State if any examination or inspection of an impoundment discloses that a hazard exists. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(ss) and can be approved. 30 CFR 948.16(ss) is hereby removed.

Subparagraph (c)(6) is revised to require that the design plan for an impoundment which meets the size criteria of 30 CFR 77.216(a) include a stability analysis which includes but is not limited to strength parameters, pore pressures, and long-term seepage conditions. Subparagraph (c)(6) also provides that the design plan will include a description of each engineering design assumption and calculation. These revisions satisfy the requirements at 30 CFR 948.16(ccc) and can be approved, and 948.16(ccc) can be removed.

Paragraph (d) has been revised to require that where sediment control or other water retention structures are constructed in sequence with the advance of the mining to allow for on-bench construction, such systems shall be constructed and certified in sections of 1,000 linear feet or less as measured from the active pit. While there is no direct Federal counterpart to the proposed language, the Director finds that the language is not inconsistent with 30 CFR 816.49(a)(3) concerning design certification.

The State proposes to revise paragraph (e) to require the inspection of sediment control or other water retention structures. The State also proposes to require that the professional engineer, licensed land surveyor, or other specialist involved in the inspection of impoundments be experienced in the construction of impoundments. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(uu) and can be approved, and 948.16(uu) can be removed.

West Virginia proposes to revise paragraph (h) to make its abandonment requirements applicable to sediment control and other water retention structures. The Director finds that these changes do not render the State program less effective than the Federal regulations, and are consistent with the required amendment at 30 CFR 948.16(n) and can be approved.

25. CSR 38–2–5.5 Permanent Impoundments

The WVDEP proposes to clarify that sediment or water retention or impounding structures left in place after final bond release must be authorized by the Director as part of the permit application or a revision to a permit. The Director finds this revision partially satisfies 30 CFR 948.16(vv) (the first sentence) and can be approved. The Director is making this finding with the assumption that the apparent typographical error in the first sentence of subsection 5.5 (''review'' should be ''revision'') will be corrected. The State has also proposed to amend subsection 5.5(c) to require the landowner to provide for sound future maintenance of a permanent impoundment. The Director finds that this provision satisfies the requirement codified in the second sentence of 30 CFR 948.16(vv). The proposed provisions are approved, and 30 CFR 948.16(vv) is hereby removed.

26. CSR 38–2–6 Blasting

a. § 38–2–6.3(b) Public Notice of Blasting Operation. This subsection is amended to require that all local governments and residents or owners of dwellings or structures located within one-half mile of the blast site be notified of surface blasting activities incident to an underground mine. The State also proposes to require that the blasting notification be announced weekly, but in no case less than 24 hours before the blasting will occur. The Director finds the amended language to be substantively identical to and no less effective than 30 CFR 817.64(a).

b. § 38–2–6.6 Blasting Control for Other Structures. The State proposes to revise Subsection 6.6 to require that all non-protected structures in the vicinity of the blasting area be protected from damage by the establishment of a maximum allowable limit on ground vibration specified by the operator in the blasting plan and approved by the Director. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(cc) and can be approved. 30 CFR 948.16(cc) is hereby removed.

c. § 38–2–6.8 Preblast Survey. Subparagraph 6.8(a) is amended to delete language that excludes a certain portions of the permit area when determining the applicability of preblast survey notification requirements. The Director finds this revision satisfies the requirements of 30 CFR 948.15(k)(7) and 948.16(l) and can be approved. 30 CFR 948.16(l) is hereby removed.

27. § CSR 38–2–8.1 Protection of Fish and Wildlife and Related Value

West Virginia proposes to add an exception to paragraphs (e)(1) and (e)(3) of Subsection 8.1 to require the use of the best technology currently available to protect raptors and large mammals, except where the Director determines that such requirements are unnecessary. The Director finds the added language to be substantively identical to and no less effective than 30 CFR 816.97(e)(1) and (3).

28. CSR § 38–2–9 Revegetation

The State proposes to revise paragraphs (g) and (h) of Subsection 9.3 to require that, in determining success on areas to be developed for forestland and wildlife resources or commercial woodlands, the trees and shrubs counted be healthy and in place for not less than two growing seasons. This revision is intended to satisfy OSM's Regulatory Reform III letter of March 6, 1990. The Director finds these amendments to be substantively identical to and no less effective than 30 CFR 816.116(b)(3)(ii) concerning revegetation, standards for success.

29. CSR § 38–2–11.1 Insurance

The State proposes to revise paragraph (a) of this subsection to clarify that liability insurance must be maintained throughout the life of the permit or any renewal thereof. The State also proposes to revise this paragraph to provide that there are no exclusions for blasting from the property damage coverage. The Director finds the proposed amendments are substantively identical to and no less effective than 30 CFR 800.60 concerning terms and conditions for liability insurance.

30. CSR § 38–2–13 Notice of Intent to Prospect

Subsection 13.1 is added to this section. Under this subsection, where prospecting operations are proposed without surface disturbance and without appreciable impacts on land, air, water, or other environmental resources, the Director may waive the requirements of this section and the bonding requirements of § 22A–3–7 of the WVSCMRA. To qualify, at least 15 days prior to commencement of any prospecting activities, the operator must file with the Director a written notice of intent to prospect. The notice must include a description of the activities to be conducted and a USGS topographic map showing the area to be prospected. The Director may approve the notice of intent subject to the findings required by paragraph (b) of Subsection 13.4. CSR 38–2–13.4(b) provides that the regulatory authority, to approve an application, must find, in writing, that the applicant has demonstrated that the prospecting operation will be conducted in accordance with section CSR 38–2–13, and other applicable provisions of the State regulations and statute, and the application. This revision is intended to satisfy in part the requirements of 30 CFR 948.15(l)(2). The Director finds that the proposed language is no less effective than 30 CFR 772.11 concerning notice requirements for exploration removing 250 tons of coal or less. The Director notes that where no surface disturbance or other appreciable impacts caused by coal exploration are anticipated, and no lands unsuitable are involved, applicants will not have some of the information required by 30 CFR 772.11, such as information related to drilling and trenching located at 772.11(b)(3) and reclamation located at 772.11(b)(5).

Subsection 38–2–13.5(b) concerning performance standards for prospecting roads is deleted and new requirements for prospecting roads are established at CSR 38–2.13.6. The new provisions provide the environmental standards relevant to the location, design, construction or reconstruction, use, maintenance, and reclamation of prospecting roads. The Director finds the proposed standards are substantively identical to and no less effective than 30 CFR 816.150 concerning general performance standards for roads.

Subsection 13.10 is revised to provide that, notwithstanding any other provision of this section, any person who proposes to conduct prospecting operations on lands which have been designated as unsuitable for surface mining pursuant to § 22A–3–22 of the WVSCMRA shall file a notice of intent in accordance with Subsection 13.3. Approval of the notice of intent shall be in accordance with Subsection 13.4. The Director finds the amendment to be consistent with and no less effective than 30 CFR 772.11(a).

31. CSR § 38–2–14.5 Hydrologic Balance

West Virginia proposes to revise paragraph (b) of this subsection to require that monitoring frequency and effluent limitations be governed by the standards set forth in a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to § 20–5–1 *et seq.* of the West Virginia Code, the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251 *et seq.* and the rules and regulations promulgated thereunder. The Director finds these amendments to be consistent with and no less effective than 30 CFR 816.42 concerning water quality standards and effluent limitations.

Paragraph (c) has been revised to require that any water discharged from a permit area and treated complies with the requirements of paragraph (b) of this subsection, pertaining to NPDES permits. The Director finds this amendment is consistent with and no less effective than 30 CFR 816.42 concerning water quality standards and effluent limitations.

Paragraph (h) has been revised to provide that a waiver of water supply replacement rights granted by a landowner can apply only to underground mining, provided that it does not exempt any operator from the responsibility of maintaining water quality. Under section 720(a)(2) of SMCRA and 30 CFR 816.41(j), the permittee must promptly replace any drinking, domestic, or residential water supply that is contaminated, diminished, or interrupted by underground mining activities conducted after October 24, 1992, if the well or spring was in existence before the permit application was received. Such water supplies may be replaced by restoring a spring or an aquifer, or by providing water from an alternative source, such as from another aquifer or from a public water supply or a pipeline from another location.

While a landowner may not desire the replacement of a water supply on his or her property, a waiver is only permissible under the circumstances set forth in paragraph (b) of the definition of ''Replacement of water supply'' at 30 CFR 701.5.

The definition of ''Replacement of water supply'' at 30 CFR 701.5 provides that, at paragraph (b), if the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

Therefore, the waiver of water supply proposed to be authorized by the State must be consistent with the definition of ''Replacement of water supply'' at 30 CFR 701.5. The Director notes that while section 720(a)(2) of SMCRA does not expressly authorize waivers, the regulations implementing this provision recognize that waivers are appropriate under certain circumstances, provided the permittee demonstrates that an alternative source is available. However, under the definition, no waivers (source or delivery system) are permissible if the water supply is needed for either the existing land use or the approved postmining land use.

The Director finds that the proposed language is not inconsistent with SMCRA and the Federal regulations except to the extent that the proposed waiver would not be implemented in accordance with the definition of ''Replacement of water supply'' at 30 CFR 701.5. The Director also finds that this revision satisfies the requirements of 948.16(q), and that 30 CFR 948.16(q) can be removed. In addition, the Director is requiring that the West Virginia program be further amended to clarify that under Section 22–3–24(b) and CSR 38–2–14.5(h), the replacement of water supply can only be waived under the conditions set forth in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

32. CSR § 38–2–14.8 Steep Slope Mining

The State proposes to revise subparagraph (1) of paragraph (a) of this subsection to provide that casting of spoil from a higher seam to a lower seam in multiple seam operations may only occur where the highwall of the lower seam intersects the outcrop of the upper seam; the lowest seam is mined first or in advance of the upper seams; and minimum bench widths based on slopes are established on the lower bench sufficient to accommodate both spoil placement from the upper seam and bench drainage structures. This revision is intended to satisfy in part the requirements of 30 CFR 948.15(1)(2) by

preventing the placement of spoil on natural intervening slopes.

The Federal rules do not specifically address the use of cast blasting as a means of spoil transport in multi-seam operations. However, this practice is not inherently inconsistent with any Federal requirement. The State rule does not exempt these operations from compliance with other applicable requirements of the approved program. Instead, it would provide additional assurance that cast lasting is conducted in a safe and environmentally sound manner. For example, any State authorized cast blasting would necessarily have to comply with the approved State blasting provisions at CSR 38–2–6, such as the State rules controlling flyrock at CSR 38–2–6.5(d). The approved State requirements for the compaction and stability (a 1.3 static safety factor is required) of the backfill at CSR 38–2–14.8(a)(4) also apply. In some cases, the stability analysis might require that certain materials need to be rehandled to place spoil in its final place or to achieve adequate compaction of the backfill.

The approved State requirements for contemporaneous reclamation at CSR 38–2–14.15 also apply. The approved State prohibition at CSR 38–2–14.8(a)(1) of placing spoil on the downslope also applies. Where excess spoil is involved, the approved State requirements at CSR 38–2–14.14 would also apply. The required amendment codified at 30 CFR 948.16(xx) is being revised to require that the State amend its program at CSR 38–2–14.8(a) to specify design requirements of outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and insure the long-term stability of the backfill. With these considerations in mind, the Director finds that the amendment to allow the use of cast blasting is not prohibited by or otherwise inconsistent with SMCRA and the Federal regulations at 30 CFR 816.107 concerning backfilling and grading of steep slopes. The Director is taking this opportunity to delete the required amendments codified at 30 CFR 948.16(yy) and (zz). The required amendments are being removed because the West Virginia rules that had the deficiencies were never approved by the West Virginia legislature and do not appear in the latest submittal of the rules.

The State also proposes to revise subparagraph (4) of paragraph (a) to prohibit placement of woody materials in the backfill unless the Director first determines that the method of placement of woody material will not deteriorate the future stability of the backfilled area. The Director finds the amended language substantively identical to 30 CFR 816.107(d), and that this revision satisfies the requirement at 30 CFR 948.16(hh). 30 CFR 948.16(hh) is hereby removed.

33. CSR § 38–2–14.11 Inactive Status

West Virginia proposes to revise paragraph (b) of this subsection to provide that the Director may grant inactive status for a period not to exceed one-half the permit term if it is determined that the application contains sufficient information to meet all requirements of paragraph (a): Provided that where the applicant documents in the application that the operations will become inactive for more than 30 days, but will be reactivated on an intermittent and/or irregular basis during the approval period, such operations are not required to reapply for inactive status except at the termination date of the initial term of approval: Provided, however, that the Director may review the approval of inactive status during its term and require updated information pursuant to paragraph (a) and, based upon this or other information, may modify or rescind the approval prior to its initial termination date. The Director finds the amended language to be no less effective than 30 CFR 816.131 concerning temporary cessation of operations, which requires notification to the regulatory authority by the operator of any intention to temporarily cease mining for more than 30 days.

34. CSR § 38–2–14.12 Variance From Approximate Original Contour Requirements

West Virginia proposes to revise paragraph (a)(6) to provide that the Director may grant a variance from the requirements for restoring the mined land in steep slope areas to approximate original contour if the watershed of the permit and adjacent area will be improved by reducing pollutants, environmental impacts, or flood hazards; provided that, the watershed will be deemed improved only if the amount of total suspended solids or other pollutants discharged to ground or surface water from the permit area will be reduced, or flood hazards will be reduced, and if changes in seasonal flow volumes from the proposed permit area will not adversely affect surface water ecology or any existing or planned use of the surface or ground water. The Director finds that this change satisfies the requirement at 30 CFR 948.16(ii) and is no less effective than 30 CFR 785.16(a)(3)(i) and (ii). 30 CFR 948.16(ii) is hereby removed.

35. CSR 38–2–14.14 Disposal of Excess Spoil

Subsection (e)(2) provides that the valley fills shall be designed to assure a long-term static safety factor of 1.5 or greater. The Director finds that this provision satisfies 30 CFR 948.16(jj) which can be removed, and is no less effective than 30 CFR 816.71(b)(2) concerning excess spoil. 30 CFR 948.16(jj) is hereby removed.

Subsection (e)(10) is amended to limit the maximum grade from the outslope of a valley fill toward the rock core to three percent. The Director finds this amendment to be substantively identical to and no less effective than 30 CFR 816.72(b)(3) concerning slopes of valley and head-of-hollow fills.

36. CSR 38–2–14.15 Contemporaneous Reclamation Standards

West Virginia has completely revised this subsection to require that the mining and reclamation plan for each operation describe how the mining and reclamation operations will be coordinated to minimize total land disturbance and to keep reclamation operations as contemporaneous as possible with the advance of mining operations. The revised provisions specify time, distance and acreage limits for single seam contour mining, single seam contour mining and auger operations, area mining, augering, multiple seam mining, and mountaintop removal operations. The proposed rules set deadlines for existing and new operations to comply with these requirements, and they allow the Director to grant variances to specific standards with proper justification. The Director finds these amended provisions to be consistent with and no less effective than 30 CFR 816.100 concerning contemporaneous reclamation, and the backfilling and grading requirements at 30 CFR 816.102. The Director notes that 30 CFR 816.101 concerning time and distance requirements for contemporaneous reclamation is suspended (57 FR 33875; July 31, 1992) and cannot be used as a standard against which to judge the effectiveness of State programs. As such, the Federal regulations do not contain specific time and distance requirements, but only require, at 30 CFR 816.100, that reclamation efforts occur as contemporaneously as practicable with mining operations.

Subsection (m) is amended to add provisions governing the placement of coal processing waste in the backfill. Under the proposed provision, compaction shall be in accordance with CSR 38–2–22.3(p) and shall achieve a

minimum static safety factor of 1.3. The coal processing waste shall not contain acid-producing or toxic-forming material and shall be placed in a controlled manner to: minimize effects on surface and groundwater quality and quantity; ensure mass stability; ensure suitable reclamation and revegetation compatible with the postmining land use; not create a public hazard; and prevent combustion. Such disposal facilities must be designed using current prudent engineering practices and must meet any design criteria established by the regulatory authority. Designs must be certified by a qualified registered professional engineer. Any potential hazards must be promptly reported. The Director finds these amendments do not render the State program less effective than 30 CFR 816.81 (a) and (c)(1). 30 CFR 816.81(b) does not apply because the State is not proposing to allow coal waste from activities located outside the permit area to be placed in the backfill. 30 CFR 816.81(d) does not apply because the coal waste will be placed in the backfill, and not in a refuse pile. The State has proposed a static safety factor of 1.3 which is identical to that required at 30 CFR 816.102(a)(3) concerning backfilling and grading; general standards. The 1.3 static safety factor is the appropriate factor to require, since the proposed provision concerns placing coal waste in a backfill and not in a waste pile. Finally, the Director notes that all the State provisions concerning the protection of the hydrologic balance will continue to apply. The prohibition in the proposed language to the placement of acid-producing and toxic-forming material in the backfill will help assure the protection of the hydrologic balance.

37. CSR § 38–2–14–17 Control of Fugitive Dust

West Virginia proposes to revise this subsection to require that all exposed surface areas be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

The Director finds this revision to be substantially identical to and, therefore, no less effective than the Federal regulations at 30 CFR 816.95(a).

38. CSR 38–2–14.18 Utility Installations

WVDEP proposes to add a provision requiring that all surface mining operations be conducted in a manner that minimizes damage, destruction, or disruption of services provided by utilities. The Director finds the added provision to be substantially identical to and, therefore, no less effective than 30 CFR 816.180 concerning utility installations.

39. CSR 38–2–14–19 Disposal of Noncoal Waste

WVDEP proposes to add provisions to regulate the disposal of noncoal waste such as grease, lubricants, garbage, abandoned machinery, lumber and other materials generated during mining activities. Under the proposal, final disposal of noncoal waste will be in accordance with a permit issued pursuant to Chapter 22, Article 15 of the Code of West Virginia (Solid Waste Management Act). The Director finds these provisions consistent with the Federal regulations at 30 CFR 816.89(b) which allows operators to dispose of noncoal mine waste in State-appointed solid waste disposal areas outside of the permit area.

The proposed provisions would also allow timber from clearing and grubbing operations to be wind-rowed below the projected toe of the outslope. The Director finds these provisions to be non inconsistent with the Federal regulations at 30 CFR 816.89 concerning disposal of noncoal mine wastes. However, the proposed windrowing is less effective than the Federal steep slope regulations at 30 CFR 816.107(b). 30 CFR 816.107(b) prohibits the placement of debris, including that from clearing and grubbing, on the downslope in steep slope areas. Therefore, the Director is approving the proposed amendments except to the extent that windrowing would be allowed on the downslope in steep slope areas. In addition, the Director is requiring that West Virginia further amend CSR 38–2–14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

40. CSR 38–2–15.2 Backfilling and Regrading; Underground Mines

The State proposes to revise paragraph (b) of this subsection to require that reclamation activities of an underground mine be initiated within 30 days of completion of underground operations. The Director finds the proposed amendment to be consistent with 30 CFR 817.100 concerning contemporaneous reclamation.

41. CSR 38–2–16.2 Subsidence Control; Surface Owner Protection

West Virginia proposes to revise paragraph (c) of this subsection by deleting the phrase, ''To the extent required under applicable provisions of State law.'' This revision is intended to correct the deficiency noted at 30 CFR 948.15(k)(11). The Director finds the proposed deletion does not render the West Virginia program less effective than 30 CFR 817.121(c)(2), and satisfies the deficiency noted at 30 CFR 948.15(k)(11).

42. CSR § 38–3–17 Small Operator Assistance Program (SOAP)

The State is making numerous changes to its SOAP provisions.

a. Subsection 17.1 is amended to identify services fundable under the SOAP and to provide that the State will develop procedures for the interstate exchange of SOAP information. While there is no Federal counterpart to interstate exchanges of SOAP information, the Director finds these changes to be consistent with and no less effective than 30 CFR 795.9 concerning program services and data requirements, and no less stringent than section 507(c)(2) of SMCRA, concerning the assumption of training costs.

b. Subsection 172. is amended to clarify that requests for SOAP assistance must be in writing. The Director finds the amendment to be consistent with 30 CFR 795.7 concerning filing for assistance.

c. Subsection 17.3 is amended to increase the production limit of those operators eligible for assistance under the SOAP from 100,000 to 300,000 tons. The State is also raising, at 17.3(b)(1), the threshold ownership percentage for which coal production from an operation will be attributed to the applicant from five percent to ten percent interest. Finally, the State is requiring that all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management be attributed to the applicant. The Director finds these changes to be substantively identical to counterpart provisions at 30 CFR 795.6(a). In addition, the requirement at 30 CFR 948.16(kk) is satisfied and is hereby removed.

d. Subsection 17.4 is amended to require SOAP applicants to use application forms and format provided by the State. While there is no direct Federal counterpart, the Director finds these changes to be consistent with 30 CFR 795.7 concerning filing for assistance.

e. Subsection 17.5 is amended to provide that applicants be notified in writing of approval or denial of a SOAP application. This subsection is also amended to add that contractors may be used for SOAP assistance to qualified laboratories. The Director finds these changes to be consistent with and no less effective than 30 CFR 795.8(a) concerning application approval and

notice, and 795.10(b) concerning subcontractors.

f. Subsection 17.6 is amended to add the term SOAP contractor, and to provide that the laboratory or contractor must be qualified to perform the required determinations and statements. The Director finds the changes to be consistent with and no less effective than 30 CFR 795.10 concerning qualified laboratories and subcontractors.

g. Subsection 17.7(a)(4) and 17.7(a)(5) are amended to clarify that operator liability will be based on actual and attributed annual production for all locations of 300,000 tons during the 12-month period immediately following permit issuance. The Director finds this provision to be substantively identical to and no less effective than 30 CFR 795.12(a)(2), concerning applicant liability.

Subsection 17.7(b) is amended to require applicants to submit written statements with sufficiently demonstrate that the applicant has acted in good faith at all times prior to the State waiving the reimbursement obligation. The Director finds this provision to be substantively identical to 30 CFR 795.12(b).

43. CSR § 38–2–18.3 Review of Decision Not to Inspect or Enforce

Subsection 18.3(b) has been revised to provide that any person who is or may be adversely affected by the decision of the Director not to inspect or enforce may appeal such decision to the Surface Mine Board pursuant to § 22–4–2 of the Code of West Virginia. The Director finds the amended language to be substantively identical to and no less effective than 30 CFR 842.15(d) concerning review of decision not to inspect or enforce.

44. CSR § 38–2–20.1 Inspection Frequencies

The State proposes to revise paragraph (a) of this subsection to provide that prospecting operations be inspected ''as necessary'' to assure compliance with the Act and these regulations. The Director finds the proposed language to be substantively identical to and no less effective than 30 CFR 840.11(c) concerning inspections by State regulatory authorities.

45. CSR § 38.2–20.2 Notices of Violations

Paragraph (a) of this subsection has been amended to provide that when the Director determines that a surface mining and reclamation operation or prospecting operation is in violation of any of the requirements of the Act, these regulations or the terms and conditions of the permit or prospecting approval, a notice of violation shall be issued. Such notice of violation shall comply with all the requirements and provisions of this subsection. In the past, pursuant to its Code of Violations, the State issued enforcement actions rather than notices of violation, for certain violations. This proposal will only allow the issuance of a notice of violation. The Director finds the added language no less effective than 30 CFR 843.12(a)(1) concerning notices of violations.

Subparagraph (b)(3) has been amended to change the maximum initial abatement period from 15-days to 30-days. This change is proposed to render the regulations consistent with 22–3–17(o) of WVSCMRA which now provides for an initial abatement period of 30 days, followed by a maximum additional abatement period of 60 days following issuance of a cessation order. The Director finds the change is reasonable and does not render the West Virginia program less effective than 30 CFR 843.12(b)(3) concerning abatement of violations, or less stringent than section 521(a)(3) of SMCRA, which allows a maximum total abatement period of 90 days, following issuance of a notice of violation and cessation order.

46. CSR § 38–2–20.4 Show Cause Orders

West Virginia proposes to revise paragraph (b) of this subsection by adding the phrase, ''where violations were cited.'' The proposal provides that the Director may determine a pattern of violations exists or has existed where violations were cited on two or more inspections of the permit area within any 12-month period. The Director finds the proposed change to be substantively identical to and no less effective than 30 CFR 843.13(a)(2) concerning pattern of violations.

47. CSR § 38–2–20.5 Civil Penalty Determinations

Paragraph (b) has been revised to provide that the Director shall, for ''any'' cessation order, assess a civil penalty in accordance with § 22–3–17(a) of the WVSCMRA for each day of continuing violation, except that such penalty shall not be assessed for more than 30 days. In accordance with this change, the sentence requiring that imminent harm cessation orders shall have an initial assessment in accordance with subsection 20.7 of the regulations is deleted. The State now assesses all cessation orders, including imminent harm cessation orders, as if they were failure-to-abate cessation orders. That is, they are assessed a civil penalty at the rate of $750 per day, for 30 days, beginning with the issuance date.

The Director finds that these proposed changes return the State program to its former practice of assessing imminent harm cessation orders as failure to abate cessation orders.

This practice was included in West Virginia's original permanent program submittal, which OSM approved on January 21, 1981 (46 FR 5916–5956). However, in 1991, West Virginia proposed to change this long-standing practice to require that imminent harm cessation orders be assessed according to the State's point system at CSR 38–2–20.7. The Director did not approve this proposed change, noting that the State failed to retain the requirement that civil penalties be assessed for cessation orders in all instances, and that violations in imminent harm cessation orders be assessed an additional penalty of $750 for each day the failure to abate continues. The Director also questioned whether the State has statutory authority to assess imminent harm cessation orders using the point system (56 FR 58306, 58307; November 19, 1991). Because of these deficiencies, the Director imposed a required amendment, which is codified at 30 CFR 948.16(ddd) (*Id*. at 58311). Within the current proposal to return to its former practice, West Virginia has revised CSR 38–2–20.5(b) to require the assessment of civil penalties for ''any'' cessation orders, in accordance with § 22–3–17(a), which requires that failure to abate cessation orders be assessed at $750 per day for each day the failure to abate continues. As such, imminent harm cessation orders will be assessed penalties of $750 per day for each day a violation continues, both before and after the target date for abatement. Therefore, the reference to § 22–3–17(a) satisfies the deficiency noted at 30 CFR 948.15(m) and the requirement at 30 CFR 948.16(ddd) concerning initial and mandatory civil penalty assessment procedures for imminent harm cessation orders. 30 CFR 948.16(ddd) is hereby removed.

The State also proposes to revise this paragraph to provide that if the cessation order has not been abated within the 30-day period, the Director shall initiate action pursuant to § 22–3–17(b), (g), (h) and (j) of the WVSCMRA as appropriate. The term ''modified'' was deleted from previous language of this provision that read, ''* * * abated or modified within the thirty (30) day period * * *.'' The Director finds this revision satisfies the requirement at 30 CFR 948.16(eee). The deletion of the word ''modified'' is consistent with the Federal regulations at 30 CFR 845.15(b)

concerning assessment of violations. The Director also finds that the requirement coded at 30 CFR 948.16(fff) concerning the starting and ending dates for civil penalty assessments is satisfied by the reference to § 22–3–17(a) of the WVSCMRA at CSR 38–2–20.5(b). 30 CFR 948.16 (eee) and (fff) are hereby removed.

48. CSR § 38–2–20.6 Procedures for Assessing Civil Penalties

The State proposes to revise paragraph (d) of this subsection to remove the restrictions on public participation at assessment conferences. The proposed rule provides that any person may submit in writing at the time of the assessment conference a request to present evidence concerning the violation(s) being conferenced. Such request must be granted by the assessment officer. The Director finds these changes satisfy the deficiency codified at 30 CFR 948.15(m)(2) and the requirement at 948.16(ggg). 30 CFR 948.16(ggg) is hereby removed.

Subparagraph (h) has been amended to change the citation of § 22–3–17(d)(3) or (4), to § 22–3–17(d)(1) of WVSCMRA. This change was made to be consistent with the changes made to § 22–3–17; see Finding A 11, above. The Director finds the citation changes do not render the State program inconsistent with 30 CFR Part 845 and are approved.

49. CSR § 38–2–20.7 Assessment Rates

Paragraphs (a), (b) and (c) are revised to clarify that the monetary denomination used in the assessment of civil penalties is dollars. The Director finds the revisions satisfy the requirement at 30 CFR 948.16(hhh). 30 CFR 948.16(hhh) is hereby removed.

Paragraph (d) is revised to ensure that an operator is awarded good faith only where abatement is achieved before the time set for abatement. The Director finds these revisions satisfy the deficiency codified at 30 CFR 948.15(m)(2) and the requirements of 948.16(iii). 30 CFR 948.16(iii) is hereby removed.

50. CSR § 38–2–22 Coal Refuse

a. Subsection 22.2 to require that coal refuse disposal facilities be designed to attain a minimum long-term static safety factor of 1.5 and a seismic factor of safety of 1.2. The Director finds the change satisfies the requirements codified at 30 CFR 948.16(aaa). 30 CFR 948.16(aaa) is hereby removed.

b. Subsection 22.3(p) has been revised deleting the provision that allows coal refuse piles to be constructed with slopes exceeding two (2) horizontal to one (1) vertical. The Director finds this revision satisfies the deficiency codified at 30 CFR 948.15(l)(2) and the requirements of 948.16(bbb). 30 CFR 948.16(bbb) is hereby removed.

c. Subsection 22.4(f) has been amended to provide that Class A coal refuse impoundments be designed for a minimum P_{100}+0.12 (PMP–P_{100}) inches of rainfall in 6 hours and Class B coal refuse impoundments be designed for a minimum P_{100}+0.40 (PMP–P_{100}) inches of rainfall in 6 hours. The Director finds the proposed amendments to be consistent with and no less effective than 30 CFR 816.84(b)(2).

d. Subsection 22.4(g) has been amended to add the requirement that all impoundments meeting size or other criteria of 30 CFR 77.216(a) must be designed and constructed to safely pass the probable maximum precipitation (PMP) of a 24 hour storm event. The Director finds the proposed amendment to be no less effective than 30 CFR 816.84(b)(2) concerning the design event for coal refuse disposal impoundments meeting or exceeding the criteria of 30 CFR 77.216(a) with one exception. Rainfall data for design storms is usually obtained from the U.S. Weather Service. The U.S. Weather Service's document ''Rainfall Frequency Atlas,'' however, does not have data charts concerning PMP for a 24-hour storm event. Without such data the standard cannot be implemented. Therefore, the Director is requiring that West Virginia demonstrate how the State would implement the PMP 24-hour standard, or revise subsection 22.4(g) to require compliance with a PMP 6-hour standard. Data for the PMP 6-hour storm event is available from the U.S. Weather Service.

e. Subsections 22.4 (g) and (h) have been revised to allow the use of single open channel or open channel spillways if they are of non-erodible materials and designed to carry sustained flows or earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected. The Director finds these revisions satisfy the requirements at 30 CFR 948.16(mm). 30 CFR 948.16(mm) is hereby removed.

f. Subsection 22.5(a)(2) has been amended to provide that all coal refuse sites be constructed and maintained so as to attain a minimum long-term static safety factor of 1.5, and that structures that have the capacity to impound water also attain a seismic safety factor of 1.2. The Director finds the proposed standards are consistent with the requirements contained in 30 CFR 948.16(aaa) and can be approved.

g. Subsection 22.7(a) has been amended to require that inspections of impounding refuse piles be made regularly, but not less than quarterly during construction. In addition, inspections will be made during placement and compaction of coal refuse material and during critical construction periods. Subsection 22.7(c) is amended to provide that impoundments not meeting MSHA size or other criteria be examined at least quarterly. Subsection 22.7(d) is amended to provide that a copy of each inspection or examination report be retained at or near the mine site. The Director finds the proposed amendments to be consistent with and no less effective than 30 CFR 816.83(d) concerning inspections of refuse piles, 30 CFR 816.49(a)(12) concerning impoundment examinations, and 816.49(a)(11)(iii) concerning inspection reports.

51. CSR 38–2C–4 Training of Blasters

Section 4 has been amended to add a provision that would allow applicants for certification or recertification to complete a self-study course in lieu of the existing training program. Self-study materials would be provided the State. While there is no direct Federal counterpart, the Director finds the proposed language is consistent with 30 CFR 850.13 concerning the training of blasters.

52. CSR 38–2C–5 Examination for Certification of Examiner/Inspector and Certified Blaster

Subsections 5.1 and 5.2 are amended to add that the examination for certified blaster will also test on information contained in the self-study course established by § 38–2C–4 as an option to completing the refresher training course. While there is no Federal counterpart, the Director finds the proposed language is not inconsistent with 30 CFR 850.13 concerning training of blasters.

53. CSR 38–2C–8.2 Refresher Training Course/Self-study Course

This subsection is amended to allow the completion of the self-study course established by § 38–2C–4 as an option to completing the refresher training course. While there is no Federal counterpart, the Director finds the proposed language is not inconsistent with 30 CFR 850.13 concerning training of blasters.

54. CSR 38–2C–10.1 Violations by a Certified Blaster

WVDEP proposes to remove language authorizing the Director to issue a cessation order and/or take other action as provided by the WVSCMRA § 22–3–16 and 17 when a certified blaster is in violation of WVSCMRA § 22–3–1. The

Director retains authority to issue a notice of violation. While the Federal regulations do not specifically provide for the issuance of either notice of violations or cessation orders against certified blasters, the Director finds the proposed changes are not inconsistent with 30 CFR 850.15(b) concerning suspension and revocation of blaster certification.

55. CSR 38–2C–11.1 Penalties

This subsection is amended to authorize the issuance of an order to suspend a blaster's certification based on clear and convincing evidence of a violation, and to provide for a hearing to show cause why a blasters certification should not be suspended. Deleted from this subsection and from subsection 11.2, and § 38–2C–12 are reference to cessation orders. The Director finds the proposed changes to be consistent with and no less effective than 30 CFR 850.15(b) concerning suspension and revocation of blaster certification.

56. CSR 38–2D–4.4 Reclamation Objectives and Priorities

This subsection is amended to clarify its objectives and priorities for abandoned mine lands reclamation projects by indicating the provision applies to ''past'' coal mining practices which may or may not constitute and extreme danger. The Director finds the proposed change to be no less stringent than section 403(a)(2) of SMCRA concerning eligible lands and water.

57. CSR 38–2D–6.3(a) Acceptance of Gifts of Land

This section is revised to remove the requirement that the Director accept gifts of land in accordance with Department of Justice procedures for the acquisition of real property. The Director finds the deletion does not render the West Virginia program less effective than 30 CFR 879.13 concerning acceptance of gifts of land.

58. CSR 38–2D–8.7 Grant Application Procedures

This section is amended to remove provisions which describe procedures for completing and submitting a grant application to OSM for the reclamation of abandoned mine lands. The Director finds the proposed deletions do not render the West Virginia program less effective than the grant application procedures at 30 CFR 886.15 which contain no counterparts to the deleted language.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for public hearings on the proposed amendment on three separate occasions. Public hearings were held on September 7, 1993, October 27, 1994, and May 30, 1995, (Administrative Record Nos. WV–906, WV–958, and WV–983). OSM has published final rule notices on the provisions concerning bonding and the provisions concerning durable rock fills. Therefore, comments relating to those provisions will not be discussed here.

Following is a summary of the substantive comments. Comments voicing general support or opposition to the proposed amendment but devoid of any specific issues are not discussed. The summarized comments and responses are organized by subject. All comments and responses have been adjusted to reflect the nomenclature of the May 16, 1995, version of the regulations.

Amendment Review Process

A commenter asserted that OSM has predetermined the proposed State amendments in the Federal Register notice dated August 12, 1993 (58 FR 42903). Specifically, the commenter stated that OSM referred to a ''satisfaction in part of a federal referenced regulation'' (see proposed regulation changes #19, 20, 33, 35, 37, 50, and 53 in the August 12, 1993 notice). Such statements by OSM, the commenter asserted, indicate that a decision has already been made and that the changes will not be objectively considered by OSM. In response, the Director believes that the commenter has misunderstood OSM's intention. Under 30 CFR 732.17(h)(2)(i), OSM is required to inform the public of proposed changes to State regulatory programs, and to publish the text or a summary of the proposed State program amendments. As part of that notification, OSM also identifies those proposed amendments that are related to program deficiencies that are codified in the Federal regulations at 30 CFR 948.16 concerning required program amendments. This is done to draw the public's attention to the fact that the State is addressing program deficiencies. Sometimes, proposed amendments appear to address only part of the requirements codified at 30 CFR 948.16. In those cases, OSM often states that the proposed amendment is intended to satisfy a portion of the requirements of a specific paragraph codified at 30 CFR 948.16. In no way does such a statement by OSM mean, or imply, that OSM has predetermined whether or not the proposed amendment is approvable by OSM.

No Federal Counterpart Provisions

Some commenters made the assertion that in situations where there are no Federal counterparts to the proposed State provisions that the proposed provisions should not be of concern to OSM. In response, the Director notes that, under 30 CFR 732.17, the State must submit and OSM must review changes to approved State programs. In those cases where there are no direct Federal counterparts to the proposed State provisions, OSM will make a determination, under 30 CFR 732.15 (a) and (c), of whether or not the State provisions are in accordance with SMCRA and consistent with the Federal regulations, and that the proposed State provisions would not interfere with or preclude implementation of SMCRA or the Federal regulations.

Statutes

§ 22–3–13(b)(10) Performance standards: The commenter stated that the charge to avoid acid or toxic mine drainage implies that you have to avoid it at all costs, and that you can't have any alternative. In response, the Director notes the provision is substantively identical to section 515(b)(10)(A) of SMCRA (see Finding A9).

§ 22–3–19 Permit renewal and revision: A commenter stated that the proposed renewal fee is required only when the operator is going to continue active mining. Also, that a fee is not required for any reclamation work, including regrading and certainly not needed for the grass to grow. In response, the Director notes that under the proposed rules at CSR 38–2–3.27(a), the WVDEP may waive, under specified conditions, the requirements for permit renewal if coal removal is completed. Therefore, the $2000 filing fee may not affect permittees with only reclamation to be done.

§ 22–3–19(a)(2) Permit renewal and revision: The commenter stated that the amended statute remains more than a bit fuzzy as to whether or not the additional land area will be subject to the procedural requirements of a new permit, i.e., public notice, review and comment. The Director disagrees. The proposed language and the State's June 16, 1994 (WV–923) clarification letter, both clearly state that new areas being added to a permit at renewal will be subject to the full permitting requirements of the West Virginia program, including public review, notice, and comment.

§ 22–3–28 Special reclamation permits: The commenter said that this section should be removed from the State program even though the State has expressed interest in leaving it in the State program in the event that OSM will, in the future, approve such special permits. In response, the Director is not acting on this provision, at this time, because the State has not made any substantive changes to this section. The State will be notified via the 30 CFR part 732 process that the provisions are inconsistent with SMCRA and should be removed.

Rules

Rulemaking Authority

A commenter stated that some of the proposed rules exceed the authority granted to the Division under WV Code § 22–3–11(a) to the extent that they attempt to amend 38 CSR §§ 14.8 (steep slope mining) and 14.15 (backfilling and regrading). The commenter stated that the legislation that authorized the Division to promulgate the site-specific bonding regulations provided for a special exception from the normal rulemaking procedure (allowing the Division to proceed to final adoption without submission to the Legislature) specifically for the purpose of implementing a new bonding system, and not for any other amendments. In response, the Director notes that the West Virginia statutes at § 22–3–2 and § 22–3–13(d) authorize the director of the division of environmental protection to promulgate, administer and enforce rules pursuant to the West Virginia Surface Coal Mining and Reclamation Act. The rules the commenter referred to (CSR 38–2–14.8 and 14.15) were promulgated as legislative rules, and were approved by the State legislature. See Findings B32 and B36 above for the Director's findings on those amended rules.

General

CSR 38–2–1.2 Applicability: The commenter stated that this provision should not have retroactive application. See Section V, Director's Decision, below, for a complete explanation of the Director's retroactive approval.

Definitions

CSR 38–2–2.20 Chemical treatment: Commenters are concerned that this definition, which separates passive treatment from the definition, will lead to problems related to bond release. The specific concern is that if bond release is authorized in cases where passive treatment system (e.g., limestone drains) are maintaining water quality standards, then the risk is high that water quality will degrade after bond release as the passive treatment systems lose effectiveness. Another commenter said that there is no Federal counterpart and it should be approved. This commenter said that the definition of ''chemical treatment'' applies to all facets of the regulations, not just to bond release. The Director has approved the definition of ''chemical treatment'' except to the extent that the definition would allow bond release where passive treatment systems are used to achieve compliance with applicable effluent standards (see Finding B–2a above). Although OSM encourages the use of passive treatment systems as an integral part of surface mining and reclamation operations, the effectiveness and reliability of such passive systems to control pollutional discharges on a long-term basis has not been proven to the extent that they can be considered an effective basis for bond release.

Permits

CSR 38–2–3.7 Excess spoil: The commenters object to the removal of the authority to approve alternative design requirements for excess spoil fills. The commenter stated that identical regulations have been approved in the Virginia program at 480–03–19–816.73. In response, the Director notes that the Virginia provision was approved because it specifies criteria that such alternative designs must meet. Such criteria are not present in the West Virginia rule, and the Director did not approve the rule.

CSR 38–2–3.12 Subsidence control plan: One commenter expressed concern as to whether or not State law is still a consideration on the obligation to support the surface (from subsidence) under CSR 38–2–16.2. Another commenter stated that nothing in State SMCRA has changed to provide authority for removing the State law limitation found in the State regulation. In response, the Director notes that the deletion of the reference to state law is intended to clarify that the requirements of CSR 38–2–16.2 are not to be diminished by other State law. The amended State language is a response to the amendments made to Federal SMCRA by the Energy Policy Act of 1992. The Energy Policy Act added new section 720 to SMCRA to provide for the repair or compensation for material damage caused by subsidence, and the replacement of drinking, domestic, or residential water supplies damaged by underground coal mining operations. The Federal regulations implementing section 720 of SMCRA were published in the Federal Register on March 31, 1995 (60 FR 16722–16751). Neither section 720 of SMCRA nor the implementing regulations defer to State law concerning the requirements to repair or compensate for subsidence-caused material damage to dwellings and related structures or the replacement of water supplies damaged by underground coal mining operations.

CSR 38–2–3.14 Removal of abandoned coal waste piles: The commenter apparently disagrees with the proposed provision concerning the need for a permit if the coal waste material can be classified as coal using the BTU standard in ASTM D 388–88. In response, the Director notes that if a mined deposit is coal, a permit is required. Section 506 of SMCRA requires a permit if coal mining operations are to be conducted. The Federal regulations at 701.5 define surface mining activities to include the recovery of coal from deposits not in their original geologic location, which would include the reprocessing of abandoned waste piles.

CSR 38–2–3.27 Permit renewals: The commenter disagrees with the proposed language that allows the State to waive the requirements for permit renewal only where all coal extraction is completed and all backfilling and regrading will be completed within 60 days prior to the expiration date of the permit. The commenter states that Federal law only requires a permit in order to ''mine'' and does not require that reclamation be permitted. In response, the Director notes that the proposed State provision is consistent with and is a reasonable interpretation of the Federal requirements at 30 CFR 773.11(a) concerning the requirements to obtain permits. See Finding B.14 above for the Director's approval of this provision.

CSR 38–2–3.28 Permit revisions: The commenter disagrees with the amendments that would allow the State to determine if an updated probable hydrologic consequences (PHC) determination is necessary, or if other permit revisions are necessary. In response, the Director notes that the State requirements concerning the PHC are consistent with the Federal requirements at 30 CFR 780.21(f)(4). The State provision concerning reasonable revisions is consistent with the Federal requirements at 30 CFR 774.11(b) concerning review of permits.

CSR 38–2–3.28 Permit revisions: The commenter stated that new provisions cannot be applied retroactively. See Section V, Director's Decision, below, for a complete explanation of the Director's retroactive approval.

CSR 38–2–3.29 Incidental boundary revisions (IBR's): The commenter stated that it should be mandatory for the State to require an advertisement and a ten day public comment period for any IBR greater than 50 acres in size that might be granted pursuant to the waiver provision at the end of CSR 38–2–3.29(b)(2). The Director does not agree. A requirement to advertise in all such cases would eliminate the possibility of the regulatory authority exercising reasonable discretion in the conduct of its responsibilities. Also, neither SMCRA nor the Federal regulations require notice or comment on proposed IBR's. The approved State program does, however, provide for appeals of decisions by the regulatory authority under CSR 38–2–18.

CSR 38–2–3.34(b) and (g) Improvidently issued permits: The commenter disagrees with these amendments and stated that the provisions appear to be for the purpose of covering agency mistakes, with no regard for the coal operator. The Director disagrees. As noted in Finding B21, above, the proposed changes are consistent with the language and intent of the Federal regulations at 30 CFR 773.20 concerning improvidently issued permits and 773.15 concerning review of permit applications.

Roads

CSR 38–2–4 Haulageways or Access Roads: The commenter said there is no Federal requirement in this area. The Director disagrees. The counterpart Federal provisions are at 30 CFR 816.150 concerning roads; general, and 816.151 concerning primary roads.

CSR 38–2–4.4 Infrequently used access roads: The commenter disagrees with the need for the proposed language. The commenter stated that the key to the requirements for infrequently used access roads is use and frequency of use. Unless the road is used frequently, the operator should not be required to spend large sums of money on extensive plans, pipes, drains and other costly items. In response, the Director notes that a road's impact on the environment is only partly derived from the use of the road. The degree of alteration of the natural land configuration of the road itself can be the greater source of environmental harm. The proposed rules are designed to minimize those impacts.

Drainage and Sediment Control

CSR 38–2–5.5 Permanent impoundments: The commenter stated that permanent impoundments should be encouraged, not restricted. In response, the Director notes that the provisions concerning the retention of permanent impoundments both authorize the retention of such impoundments and ensure sound future maintenance.

Blasting

CSR 38–2–6.3(a) Public notice of blasting operations: The commenter stated that all natural gas pipelines should be included within the definition of ''public utilities'' at subsection 6.3(a) and be notified of the blasting schedule. Without such notice, the commenter stated, the opportunity for significant input on the specifics of the blasting plan may be lost without written notice at the permit stage. As discussed in Finding B26b, above, the proposed State language is substantively identical to and, therefore, no less effective than the Federal regulations at 30 CFR 817.64(a). The Director agrees that such notice would be valuable, however, and encourages the commenter to discuss this matter with the regulatory authority.

Insurance and Bonding

CSR 38–2–11.1 Insurance: The commenter stated that the amendment is unclear and that it seems as though blasting liability continues after blasting is continued. The Director disagrees. The State language clearly states that insurance coverage for blasting damage may be terminated prior to final bond release, but not before blasting activities have ceased. The provision also requires that even though blasting coverage may be terminated, the full amount of the liability coverage (from subsection 11.1(a)) shall continue throughout the life of the permit (or renewal).

Notice of Intent To Prospect

CSR 38–2–13.6(a)(7), (f)(6) Prospecting roads: The commenter recommended that the proposed language not be approved. There is no Federal counterpart for prospecting roads, the commenter asserted, and the proposed requirements would be expensive and not cost effective for such roads which are often infrequently used. In response, the Director notes that requirements for prospecting roads are intended to be counterparts to the Federal requirements for roads at 30 CFR 816.150, and as noted in Finding B30, above, the amendments are approved. 30 CFR 815.15(b) concerning coal exploration standards requires the application of 816.150(b) through (f) for coal exploration which causes substantial disturbance.

Performance Standards

CSR 38–2–14.5(h) Waiver of water supply replacement: The commenter stated that no waivers of water supply should be allowed because they would be inconsistent with the Energy Policy Act of 1992. In response, and as discussed above in Finding B31, above, the Director has determined that the proposed language is not inconsistent with SMCRA and the Federal regulations except to the extent that the proposed waiver would not be implemented in accordance with the definition of ''Replacement of water supply'' at 30 CFR 701.5. In addition, the Director is requiring that the West Virginia program be further amended to clarify that under CSR 38–2–14.5(h), the replacement of water supply can only be waived under the conditions set forth in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

CSR 38–2–14.8 Steep slope mining: A commenter stated that the downslope prohibition (in 14.8(a)(1)) seems to be a new condition and does not take into consideration the unusual geologic conditions of the southern West Virginia coal fields. In response, the Director notes that, as discussed above in Finding B32, the amendment is intended to prevent the placement of spoil on natural intervening slopes in steep slope operations. The amendment renders the State provision substantively identical to 30 CFR 816.107(b)(1), which prohibits spoil placement on the downslope.

A commenter suggested that, to improve clarity of the new language at CSR 38–2–14.8(a)(1), the phrase ''multiple seam operations'' be amended to read ''multiple seam contour operations.'' The Director notes that, while the change would improve clarity, contour mining is logically implied by the amendments and the State need not be required to revise the language.

A commenter also stated disagreement with the prohibition at CSR 38–2–14.8(a)(4) concerning placement of woody material in the backfill. The commenter asserted that when done right, such placement does not cause stabilization problems. In response, the Director notes that the proposed language is substantively identical to the Federal regulations at 30 CFR 816.107(d). The State language does allow the placement of woody materials in the fill if the regulatory authority first determines that the method of placement of woody material will not deteriorate the future stability of the backfilled area.

CSR 38–2–14.15 Contemporaneous reclamation standards: The commenter

made numerous comments and provided recommended language concerning these provisions. While the comments and recommendations may have merit, the commenter is not asserting that any of the proposals are inconsistent with SMCRA or the Federal regulations. Since the Director need only decide whether amendments are in accordance with SMCRA and the Federal regulations, he will not require the State to add language to its program if it is not needed to bring the program into compliance with Federal law and regulations. As noted in Finding B36, above, the Director has determined that the State's proposed language is consistent with the Federal regulations at 30 CFR 816.100 concerning contemporaneous reclamation standards and can be approved (see Finding B36, above).

CSR 38–2–14.19(d) Disposal of noncoal mine wastes: The commenter recommended that OSM disapprove the proposal to allow the wind-rowing of timber below the toe of the outslope. The commenter stated that OSM has disapproved this practice in the past and should do so once again. As explained above in Finding B39, the Director is approving the proposed amendments except to the extent that the amendments would allow wind-rowing on the downslope in steep slope areas. Such wind-rowing in steep slope areas would be less effective than 30 CFR 816.107(b)(3).

Subsidence Control

CSR 38–2–16.2(c)(2) Subsidence control; surface owner protection: The conmenter stated that deletion of the phrase ''To the extent required under applicable provisions of State law'' should not have been proposed because court decisions negate the validity of the disapproval of that phrase and the disapproval at 30 CFR 948.15(k)(11). In response, the Director notes that the Energy Policy Act of 1992 amended SMCRA at new section 720 to require the repair or compensation for subsidence-caused material damage to certain structures. The new SMCRA provision does not provide for a deference to State law.

Inspection and Enforcement

CSR 38–2–20.6 Procedure for assessing civil penalty: Two commenters stated that this section should be modified to ensure that it is clear that citizens with information and interests which support a coal operation or operator should be equally free to participate in assessment conferences as are citizens who are opposed. The Director disagrees that the State language is unclear. The State provision clearly states that ''[a]ny person, other than the operator and Division of Environmental Protection representives, may submit in writing at the time of the conference a request to present evidence concerning the violation(s) being conferenced.'' Clearly, the provision does not state that the evidence must be either in support of or against the violation(s) being conferenced. The commenters also questioned why ''any'' person could participate in the conference, and stated that the Division of Environmental Protection should have the discretion of allowing those they feel are genuinely affected by the proceeding to attend, not just anybody or everybody who might petition. In response, the Director notes that subsection CSR 38–2–20.6(e) provides that the conference assessment officer shall consider all relevant information on the violation(s). Therefore, the assessment officer has some discretion to determine what information is relevant to the violation(s) being conferenced.

CSR 38–2–22 Coal Refuse: The commenter stated that this section should be amended to clarify that the coal refuse regulations do not apply to coal refuse placed in the backfill, but only to isolated and distinct structures designed solely or primarily for coal refuse disposal. The Director partially agrees. 30 CFR 816.81 concerning coal mine waste general requirements, provides that all coal mine waste disposed of in an area other than the mine workings or excavations shall be placed in new or existing disposal areas within the permit area. The regulations at 30 CFR 816.83 provide the standards for coal mine waste refuse piles, with particular emphasis on stability and drainage control. Coal mine waste that is placed in the backfill, however, presents potential acidity and toxicity problems that must be addressed just as those problems must be addressed if the coal waste is placed in a separate structure. The State has addressed those potential problems in its rules concerning coal refuse in the backfill at CSR 38–2–14.15(m) (see Finding B36, above). In designing those regulations, the State used applicable standards from 30 CFR 816.81 concerning coal mine waste. In approving the proposed State provisions, OSM compared them to applicable parts of 30 CFR 816.81 as the primary standards for preventing the formation of acidity and toxicity.

CSR 38–2–22.4(f) Design storm specifications: The commenter supports the proposed changes and stated that those changes bring the State standards in line with Federal standards. In response, the Director notes that as explained in Finding B50c, above, the proposed amendments are approved except to the extent that the new standards apply to impoundments that meet the size or other criteria of 30 CFR 77.216(a). 30 CFR 816.84(b)(2) provides that impoundments that meet the size or other criteria of 77.216(a) must be designed for a probable maximum precipitation (PMP) of a six-hour or greater precipitation event.

Federal Agency Comments

Pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the West Virginia program on four different occasions (Administrative Record Nos. WV–891, WV–897, WV–936, and WV–942). Comments were received from the U.S. Bureau of Land Management, the U.S. Bureau of Mines, and the U.S. Army Corps of Engineers. These Federal agencies acknowledged receipt of the amendment, but generally had no comment or acknowledged that the revisions were satisfactory.

The Mine Safety and Health Administration (MSHA) commented that CSR 38–2–14.15(m) concerning coal processing waste disposal, and CSR 38–2–14.19(d) concerning disposal of non-coal waste may be less restrictive than MSHA's requirements. For example, MSHA stated that MSHA's minimum design criteria for refuse piles (30 CFR 77.214 and 77.215) have provisions requiring the placement of clay over any exposed coal beds before constructing a refuse pile, and also prohibit the placement of any extraneous combustible materials in a refuse pile. In response, the Director notes that the State rules at CSR 38–2–14.15(m) provide that where approval for placing coal processing waste in the backfill has been granted, such placement shall be done in accordance with the compaction requirements of CSR 38–2–22.3(p). CSR 38–2–22.3(p) requires MSHA approval of any alternate construction plans for refuse piles in compacted layers exceeding two feet in thickness. In addition, the proposed language provides that the coal processing waste will not contain acid-producing or toxic-forming material. Also, CSR 38–2–14.19(c) provide that noncoal mine waste shall not be deposited in a refuse pile or impounding structure, nor shall an excavation for a noncoal mine waste disposal site be located within eight feet of any coal outcrop or coal storage area. In addition, under both of these rules,

the coal processing waste would be placed in the backfill, a location from which the coal has already been removed. Finally, nothing in CSR 38–2–14.15(m) or 14.19 excuses the operator from compliance with applicable MSHA requirements. The Director recognizes the applicability of 30 CFR 77.214 and 77.215 to refuse piles.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On July 2 and August 3, 1993 (Administrative Record Nos. WV–892 and WV–896), and June 29, 1995 (Administrative Record No. WV–999) OSM solicited EPA's concurrence on the proposed amendments. On October 17, 1994 (Administrative Record No. WV–949), EPA gave its written concurrence with a condition on subsection 5.4(b)(2) of West Virginia's regulations. Subsection CSR 38–2–5.4(b)(2) is not being amended, and is not, therefore, a subject of this rulemaking. EPA also submitted comments concerning various State provisions that are not being amended. Since the provisions are not being amended, EPA's comments will not be addressed here.

EPA also responded by letter dated January 31, 1996, with its concurrence with the proposed amendments (Administrative Record No. WV–1019). In that letter, EPA provided comments in support of CSR 38–2–14.15(m) concerning the prohibition of acidic coal processing waste being placed in backfills, and § 22B–3–4(c) concerning variances to water quality standards for coal remaining operations.

V. Director's Decision

Based on the above findings, and except as noted below, the Director is approving with certain exceptions and additional requirements the proposed amendments as submitted by West Virginia on June 28, 1993, as modified on July 30, 1993; August 18, 1994; September 1, 1994; and May 16, 1995. As discussed in the findings, there are some exceptions to this approval, and those are noted below. The Director is also requiring the State to make additional changes to certain provisions to ensure that the program is no less stringent than SMCRA and no less effective than the Federal regulations. Those requirements are also noted below.

At § 22–3–13(e)—The authorization to promulgate rules that permit variances from approximate original contour is approved to the extent that it only applies to steep slope areas as defined at WVSCMRA § 22–3–13(d). The Director is requiring that West Virginia amend its program to limit such variances to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2) of SMCRA.

At § 22B–1–7(d)—The authorization to allow temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an ''unjust hardship'' is not approved. The Director is requiring that West Virginia further amend § 22B–1–7(d) to be consistent with SMCRA sections 514(d) and 525(c).

At § 22B–1–7(h)—The authorization that would allow the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action is not approved. The Director is requiring that West Virginia further amend § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

At CSR 38–2–1.2(c)(1)—The termination of jurisdiction over an initial program site except to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or to the West Virginia permanent program as a prerequisite to the termination of jurisdiction. The Director is requiring that the State further amend subsection (c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program rules as a prerequisite to the termination of jurisdiction over an initial program site.

At CSR 38–2–2.92—The definition of ''chemical treatment'' except to the extent that the definition of ''chemical treatment'' would allow bond release where passive treatment systems are used to achieve compliance with applicable effluent limitations. The Director is requiring that West Virginia further amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations.

At CSR 38–2–3.1(o)—The grouping of ownership and control information is approved to the extend that all permit applicants which maintain centralized ownership and control files are also required to comply with all of the informational provisions contained in CSR 38–2–3.1.

At CSR 38–2–4.2(b)—Is approved to the extent that the provisions pertain to all roads, whether they are within or crossing a stream.

At CSR 38–2–4.4—Is approved except to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9. The Director is also requiring the State to amend its program to require that all infrequently used access roads comply with CSR 38–2–4.9.

At CSR 38–2–4.11—Is approved to the extent that the provision does not exclude facilities that are included within the definition of ''surface coal mining operations'' at 30 CFR 700.5.

At CSR 38–2–14.5(h)—Is approved except to the extent that the proposed waiver would not be implemented in accordance with the definition of ''Replacement of water supply'' at 30 CFR 710.5. The Director is requiring that West Virginia further amend CSR 38–2–14.5(h) and amend § 22–3-24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

At CSR 38–2–14.19—Is not approved to the extent that windrowing would be allowed on the downslope in steep slope areas. In addition, the Director is requiring that West Virginia further amend CSR 38–2–14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

At CSR 38–2–22.4(g)—The Director is requiring that West Virginia demonstrate how the State would implement the PMP 24-hour standard, or revise subsection 22.4(g) to require compliance with a PMP 6-hour standard.

The Director is amending 30 CFR Part 948 to codify this decision. With respect to those changes in State laws and regulations approved in this document, the Director is making the effective date of this approval retroactive to the date upon which they took effect in West Virginia for purposes of State law. He is taking this action in recognition of the extraordinarily complex nature of the review and approval process for this amendment and the need to affirm the validity of State actions taken during the interval between State implementation and the decision being announced today. Retroactive approval of these provisions is in keeping with the purposes of SMCRA relating to State primacy and environmental protection.

To assure consistency with 30 CFR 732.17(g), which state that ''[no] * * * change to laws or regulations shall take effect for purposes of a State Program until approved as an amendment,'' The Director's approval of the revisions, as noted in the codification below, includes West Virginia's previous and ongoing implementation of these revisions.

Retroactive approval of the revisions is appropriate because no detrimental reliance on the previous West Virginia laws or regulations has occurred for the period involved. OSM is approving these changes back only to the dates from which West Virginia began enforcing them. As support for this decision, the Director cites the rationale employed by the United States Claims Court in *McLean Hosp. Corp.* v. *United States,* 26 Cl.Ct. 1144 (1992). In *McLean,* the court held that retroactive application of a rule was appropriate where the rule was identical in substance to guidelines which had been in effect anyway during the period in question. Therefore, the Court concluded, the plaintiff could not ''claim that it relied to its detriment on a contrary rule.'' 26 Cl.Ct. at 1148. Likewise, since the Director is approving changes which the State has been enforcing there can be no claim of detrimental reliance on any contrary West Virginia Statutes or regulations in this instance.

Making portions of the approval retroactive does not require reopening of the public comment period under section 553(b)(3) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3). The public, in general, and the coal industry in particular have had sufficient notice of these revised statutory and regulatory revisions to support retroactive OSM approval. Retroactive approval constitutes an acknowledgement of statutory and regulatory revisions which West Virginia has been implementing since the respective approval dates of these revisions at the State level, and would have been expected as a natural outgrowth of the proposal. The retroactive approval does not apply to earlier versions of these provisions to the extent that such provisions were inconsistent with Federal requirements.

Furthermore, ''good cause'' both under section 553(b)(3)(B) of the APA, 5 U.S.C. 553(b)(3)(B), for retroactive approval (if notice were not sufficient) and under section 553(d)(3) of APA, 5 U.S.C. 553(d)(3), for not delaying the effective date of the approval for 30 days after the publication of this Federal Register decision document. As noted in the findings above, many of these program revisions are needed to render the West Virginia program consistent with SMCRA and no less effective than the Federal regulations.

Failure to make OSM approval of these statutory and regulatory provisions retroactive could cause significant disruption to the orderly enforcement and administration by the State of the West Virginia program. The Director believes that the desire to avoid a significant disruption of the West Virginia program, coupled with the lack of any prejudice to the public or to the regulated community, are sufficient bases to constitute ''good cause.''

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State submits and obtains the Secretary's approval of a regulatory program. Similarly, 30 CFR 732.17(a) requires that the State submit any alteration of an approved State program to OSM for review as a program amendment. Thus, any changes to the state program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In oversight of the West Virginia program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by West Virginia of only such provisions. The provisions that the Director is approving today will take effect on the specified dates for purposes of the West Virginia program.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

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

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 8, 1996.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

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

PART 948—WEST VIRGINIA

1. The authority citation for Part 948 continues to read as follows:

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

§ 948.12 [Amended]

2. Section 948.12 is amended by removing and reserving paragraphs (a), (c), (d), (g) and (h).

§ 948.13 [Amended]

3. Section 948.13 is amended by removing and reserving paragraphs (a), (b), (e) and (f).

4. Section 948.15 is amended by adding paragraph (p) to read:

§ 948.15 Approval of regulatory program amendments.

* * * * *

(p)(1) *General description and effective dates.* Except as noted in paragraph (p)(3) of this section, the amendment submitted by West Virginia to OSM by letter dated June 28, 1993, as revised by submittals dated July 30, 1993; August 18, 1994; September 1, 1994; and May 16, 1995, is approved to the extent set forth in paragraph (p)(2) of this section. The effective dates of the Director's approval of the provisions identified in paragraph (p)(2) of this section are:

(i) July 1, 1990, for those statutory amendments contained in HB–202;

(ii) June 7, 1991, for those amendments contained in SB–579;

(iii) October 16, 1991, for those amendments contained in HB–217;

(iv) July 1, 1994, for those amendments contained in HB–4030;

(v) June 11, 1994, for those amendments contained in HB–4065;

(vi) February 10, 1995, for those amendments contained in SB–250;

(vii) March 10, 1995, for those amendments contained in HB–2134;

(viii) June 9, 1995, for those amendments contained in SB–287 and HB–2523;

(ix) May 2, 1993, for those rule changes submitted on June 28, 1993 (WV–889);

(x) June 1, 1991, for those changes submitted on July 30, 1993 (WV–893) which were not identified as changes in the June 28, 1993, submittal (WV–889);

(xi) June 1, 1994, for those rule changes submitted on September 1, 1994 (WV–937);

(xii) May 1, 1995, for those blaster certification revisions submitted on May 8, 1995 (WV–979);

(xiii) June 1, 1995, for those abandoned mine land revisions submitted May 8, 1995 (WV–979);

(xiv) June 1, 1995, for all remaining changes submitted on May 16, 1995 (WV–979).

(2) *Approved revisions.* Except as noted in paragraph (p)(3) of this section, the following provisions of the amendment described in paragraph (p)(1) of this section are approved:

(i) Revisions to the West Virginia Surface Coal Mining and Reclamation Act

1. § 22–1–4 through 8—Division of Environmental Protection.
2. § 22–2—Abandoned Mine Lands and Reclamation Act.
3. § 22–3–3—Definitions.
4. § 22–3–5—Surface Mining Inspectors and Supervisors.
5. § 22–3–7—Notice of Intent to Prospect.
6. § 22–3–8—Surface Mining Reclamation Permit.
7. § 22–3–9—Permit Application Requirements.
8. § 22–3–9a—Permit to Mine Two Acres or Less. [Deleted]
9. § 22–3–13—Performance Standards to the extent that subsection 13(e) only applies to steep slope areas as defined in § 22–3–13(d).
10. § 22–3–15—Inspections.
11. § 22–3–17—Notice of Violation.
12. § 22–3–18—Permit Approval.
13. § 22–3–19—Permit Renewal and Revision Requirements.
14. § 22–3–22—Designation of Areas Unsuitable for Mining.
15. § 22–3–26—Surface Mining Operations Not Subject to the Act.
16. § 22–3–28—Special Permits for Abandoned Coal Waste Piles.
17. § 22–3–40—National Pollutant Discharge Elimination System (NPDES).
18. § 22B–1–4 through 12—Environmental Boards; General Policy and Purpose, except language at § 22B–1–7(d) which allows temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an ''unjust hardship'' and except language at § 22B–1–7(h) which allows the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action.
19. § 22B–3–4—Environmental Quality Board.
20. § 22B–4—Surface mine board.

(ii) Revisions to the West Virginia Surface Mining Reclamation Regulations

1. CSR § 38–2–1.2—Applicability; except subsection 1.2(c)(1) to the extent that it does not require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program as a prerequisite to the termination of jurisdiction over an initial program site.

2. CSR 38–2–2—Definitions; except to the extent that the definition of ''chemical treatment'' at CSR 38–2–2.20 would be applied in the context of section CSR 38–2–12.2(e) to authorize bond release for sites with discharges that require passive treatment to meet discharge standards.

3. CSR § 38–2–3.1(o)—Application information to the extent that all permit applicants which maintain centralized ownership and control files are also required to comply with all of the informational provisions contained in CSR 38–2–3.1.

4. CSR § 38–2–3.4—Maps.

5. CSR § 38–2–3.6—Operation Plan.

6. CSR § 38–2–3.7—Excess Spoil.

7. CSR § 38–2–3.8—New and Existing Structures and Support Facilities.

8. CSR § 38–2–3.12—Subsidence Control Plan.

9. CSR § 38–2–3.14—Removal of Abandoned Coal Waste Piles.

10. CSR § 38–2–3.15—Approved Person.

11. CSR § 38–2–3.16—Fish and Wildlife Resources.

12. CSR § 38–2–3.25—Transfer, Assignment or Sale of Permit Rights.

13. CSR § 38–2–3.26—Ownership and Control Changes.

14. CSR § 38–2–3.27(a)—Permit Renewals and Permit Extensions.

15. CSR § 38–2–3.28—Permit Revisions.

16. CSR § 38–2–3.29—Incidental Boundary Revisions (IBRs).

17. CSR § 38–2–30—Variances.

18. CSR § 38–2–3.31(a)—Exemption for Government Financed Highway or Other Construction.

19. CSR § 38–2–3.32—Permit Findings.

20. CSR § 38–2–3.33—Permit Conditions.

21. CSR § 38–2–3.34—Improvidently Issued Permits.

22. CSR § 38–2–4—Haulageways, Roads, and Access Roads:

22a. CSR § 38–2–4.1(a)—Road Classification system;

22b. CSR § 38–2–4.2—Plans and Specifications; except CSR 38–2–4.2(b) is approved to the extent that the provisions pertain to all roads, whether they are within or crossing a stream;

22c. CSR § 38–2–4.3—Existing Haulageways or Access Roads;

22d. CSR § 38–2–4.4—Infrequently Used Access Roads; except CSR 38–2–4.4 is approved except to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9;

22e. CSR § 38–2–4.5—Construction;

22f. CSR § 38–2–4.6—Drainage Design;

22g. CSR § 38–2–4.7—Performance Standards;

22h. CSR § 38–2–4.8—Maintenance;

22i. CSR § 38–2–4.9—Reclamation;

22j. CSR § 38–2–4.10—Primary Roads;

22k. CSR § 38–2–4.11—Support Facilities and Transportation Facilities except to the extent that the provision does not exclude facilities that are included within the definition of ''surface coal mining operations'' at 30 CFR 700.5.

22l. CSR § 38–2–4.12—Certification.

23. CSR § 38–2–5.2—Intermittent or Perennial Streams.

24. CSR § 38–2–5.4—Sediment Control.

25. CSR § 38–2–5.5—Permanent Impoundments.

26. CSR § 38–2–6—Blasting;

26a. CSR § 38–2–6.3(b)—Public Notice of Blasting Operations;

26b. CSR § 38–2–6.6—Blasting Control for Other Structures;

26c. CSR § 38–2–6.8—Preblast Survey.

27. CSR § 38–2–8.1—Protection of Fish and Wildlife and Related Values.

28. CSR § 38–2–9—Revegetation.

29. CSR § 38–2–11.1—Insurance.
30. CSR § 38–2–13—Notice of Intent to Prospect.
31. CSR § 38–2–14.5—Hydrologic Balance except to the extent that the proposed waiver at subsection (h) would not be implemented in accordance with the definition of ''Replacement of water supply'' at 30 CFR 701.5.
32. CSR § 38–2–14.8—Steep Slope Mining.
33. CSR § 38–2–14.11—Inactive Status.
34. CSR § 38–2–14.12—Variance From Approximate Original Contour Requirements.
35. CSR § 38–2–14.14—Disposal of Excess Spoil.
36. CSR § 38–2–14.15—Contemporaneous Reclamation Standards.
37. CSR § 38–2–14.17—Control of Fugitive Dust.
38. CSR § 38–2–14.18—Utility Installations.
39. CSR § 38–2–14.19—Disposal of Noncoal Waste is not approved to the extent that windrowing would be allowed on the downslope in steep slope areas.
40. CSR § 38–2–15.2—Backfilling and Regrading; Underground Mines.
41. CSR § 38–2–16.2—Subsidence Control; Surface Owner Protection.
42. CSR § 38–2–17—Small Operator Assistance Program (SOAP).
43. CSR § 38–2–18.3—Review of Decision Not to Inspect or Enforce.
44. CSR § 38–2–20.1—Inspection Frequencies.
45. CSR § 38–2–20.2—Notices of Violations.
46. CSR § 38–2–20.4—Show Cause Orders.
47. CSR § 38–2–20.5—Civil Penalty Determinations.
48. CSR § 38–2–20.6—Procedures for Assessing Civil Penalties.
49. CSR § 38–2–20.7—Assessment Rates.
50. CSR § 38–2–22—Coal Refuse.
51. CSR § 38–2C–4—Training of Blasters.
52. CSR § 38–2C–5—Examination for Certification of Examiner/Inspector and Certified Blaster.
53. CSR § 38–2C–8.2—Refresher Training Course/Self-study Course.
54. CSR § 38–2C–10.1—Violations by a Certified Blaster.
55. CSR § 38–2C–11.1—Penalties.
56. CSR § 38–2D–4.4(b) Reclamation Objectives and Priorities.
57. CSR § 38–2D–6.3(a) Acceptance of Gifts of Land.
58. CSR § 38–2D–8.7(a) Grant Application Procedures.

(3) *Exceptions.*

(i) § 22–3–13—Performance Standards is not approved to the extent that subsection 13(e) applies to areas other than steep slope areas as defined in § 22–3–13(d).

(ii) § 22B–1–4 through 12—Environmental Boards; General Policy and Purpose: Language at § 22B–1–7(d) which allows temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an ''unjust hardship'' is not approved; and language at § 22B–1–7(h) which allows the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action is not approved.

(iii) CSR § 38–2–1.2(c)(1) concerning termination of jurisdiction over an initial program site is approved except to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or to the West Virginia permanent program as a prerequisite to the termination of jurisdiction.

(iv) CSR § 38–2–2.20 concerning the definition of ''chemical treatment'' is not approved to the extent that the definition would be applied in the context of section CSR 38–2–12.2(e) to authorize bond release for sites with discharges that require passive treatment to meet discharge standards.

(v) CSR § 38–2–4.4 is not approved to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9.

(vi) CSR § 38–2–4.11 is not approved to the extent that the provision excludes facilities that are included within the definition of ''surface coal mining operations'' at 30 CFR 700.5.

(vii) CSR § 38–2–14.5(h) is not approved to the extent that the proposed waiver at subsection (h) would not be implemented in accordance with the definition of ''Replacement of water supply'' at 30 CFR 710.5.

(viii) CSR § 38–2–14.19 is not approved to the extent that windrowing would be allowed on the downslope in steep slope areas.

5. Section 948.16 is amended by removing and reserving paragraphs (c), (f), (i), (j), (l), (n), (q), (s), (t), (v), (w), (x), (aa), (cc), (hh), (ii), (jj), (kk), (mm), (nn), (pp), (qq), (rr), (ss), (uu), (vv), and (yy) through (iii); revising paragraph (xx); and adding paragraphs (mmm) through (uuu), reading as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(xx) By August 1, 1996, West Virginia shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection CSR 38–2–14.8(a) to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and insure the long-term stability of the backfill.

* * * * *

(mmm) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22–3–13(e) to limit the authorization for a variance from approximate original contour to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2) of SMCRA.

(nnn) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22B–1–7(d) to be consistent with SMCRA sections 514(d) and 525(c).

(ooo) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

(ppp) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–1.2(c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

(qqq) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–2.20, or otherwise amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations.

(rrr) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–4.4 to require that all infrequently used access roads comply with CSR 38–2–4.9.

(sss) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–14.5(h) and § 22–3–24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

(ttt) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

(uuu) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection 22.4(g) to require compliance with a PMP 6-hour standard, or demonstrate how the State would implement the PMP 24-hour standard at CSR 38–2–22.4(g).

6. Section 948.26 is amended by removing the text and reserving the heading as follows:

§ 948.26 Required abandoned mine land reclamation program/plan amendments. [Reserved]

[FR Doc. 96–3413 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 950

[SPATS No. WY–024–FOR]

Wyoming Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with certain exceptions and additional requirements, a proposed amendment to the Wyoming Abandoned Mine Land Reclamation (AMLR) plan (hereinafter referred to as the ''Wyoming plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming is revising and adding statutes pertaining to noncoal lien authority and contractor eligibility. The amendment revises the Wyoming plan to be consistent with SMCRA, to incorporate the additional flexibility afforded by the revised Federal regulations, and to improve operational efficiency.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Casper Field Office, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Plan

On February 14, 1983, the Secretary of the Interior approved the Wyoming plan. General background information on the Wyoming plan, including the Secretary's findings and the disposition of comments, can be found in the February 14, 1983, Federal Register (48 FR 6536). Subsequent actions concerning Wyoming's plan and plan amendments can be found at 30 CFR 950.30, 950.35, and 950.36.

II. Proposed Amendment

By letter dated April 21, 1995, Wyoming submitted a proposed amendment to its plan (administrative record No. WY–AML–18–8) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. WY–AML–18–1) that OSM sent to Wyoming in accordance with 30 CFR 884.15(b).

The provisions of Wyoming's statute that Wyoming proposed to revise and add were: Wyoming Statute (W.S.) 35–11–1206(a) and (b), liens for reclamation on private land, and W.S. 35–11–1209(a) and (b), contractor eligibility.

OSM announced receipt of the proposed amendment in the May 18, 1995, Federal Register (60 FR 26704), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. WY–AML–18–9). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 19, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of W.S. 35–11–1206 and the amount of the lien placed on reclaimed private lands. OSM notified Wyoming of the concerns by letter dated August 9, 1995 (administrative record No. WY–AML–18–16). Wyoming responded in a letter dated August 29, 1995, by submitting additional explanatory information for W.S. 35–11–1206 regarding the cost of reclamation in the lien computation (administrative record No. WY–AML–18–17).

Based upon the additional explanatory information for the proposed plan amendment submitted by Wyoming, OSM reopened the public comment period in the September 20, 1995, Federal Register (60 FR 48678, administrative record No. WY–AML–18–18). The public comment period closed on October 5, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds, with certain exceptions and additional requirements, that the proposed plan amendment submitted by Wyoming on April 21, 1995, and as supplemented with additional explanatory information on August 29, 1995, is in compliance with the Federal regulations at 30 CFR Subchapter R and is consistent with SMCRA. Thus, the Director approves, with certain exceptions and additional requirements, the proposed amendment.

1. W.S. 35–11–1206(a) and (b), Liens for Reclamation on Private Lands

Wyoming proposed to add the following italicized language to its provisions at W.S. 35–11–1206(a), concerning liens for reclamation on private lands, by providing, in part, that

> [w]ithin six (6) months after the completion of projects to restore, reclaim, abate, control or prevent adverse effects of past coal *or mineral* mining practices on privately owned land, the director [of the Abandoned Mine Land Division] shall itemize the monies expended and may file a lien against the property with the appropriate county clerk. If the monies expended result in a significant increase in property value, a notarized appraisal by an independent appraiser shall be filed with the lien. The lien shall not exceed the *cost of reclamation work or the* amount determined by the appraisal to be the increase in the *fair* market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal *or mineral* mining practices, *whichever is less.*

In addition, Wyoming proposed the addition of the italicized language at W.S. 35–11–1206(b) to provide that

> [t]he landowner may petition the district court for the district in which the majority of the land is located within sixty (60) days of the filing of the lien to determine the increase in the *fair* market value of the land. The amount reported to be the increase in value of the premises, *but not exceeding the cost of the reclamation work,* shall constitute the amount of the lien and shall be recorded with the lien.

As discussed below, the counterparts to these proposed State provisions are at sections 408 and 411(g) of SMCRA and in the Federal regulations at 30 CFR Part 882.

Section 408(a) of SMCRA requires that the lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. Section 408(b) of SMCRA provides that the landowner may petition to determine the increase in the market value of the land reclaimed and that the amount reported to be the increase in value of the premises shall constitute the amount of the lien. Section 411(g) of SMCRA allows the provisions of section 408 to be applied to noncoal sites after a State's

certification of completion of coal projects. OSM announced in the May 25, 1984, Federal Register (49 FR 22139) that Wyoming had certified to the completion of, or was in the process of completing, the reclamation of all known coal-related impacts eligible for funding under the State's AMLR program, and accordingly, Wyoming could use AMLR funds for noncoal projects that do not directly relate to public health or safety.

The Federal regulations at 30 CFR Part 882, which concern reclamation on private coal or noncoal land, provide at 882.12(a) that the appraisal shall state the estimated market value of the property in its unreclaimed condition and of the same property as reclaimed, and at 882.13(a), that OSM, the State, or Indian tribe has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the ''fair market value.''

The Director finds that the language proposed by Wyoming at W.S. 35–11–1206(a) that allows the Abandoned Mine Land Division (Division) to place liens on lands affected by past mineral mining practices after the completion of projects to restore, reclaim, abate, control, or prevent adverse impacts on such lands is consistent with sections 408 and 411(g) of SMCRA. Therefore, the Director approves the revision of W.S. 35–11–1206(a) allowing liens to be placed on private lands adversely effected by past mineral mining practices.

In addition, the Director finds that the language proposed by Wyoming at W.S. 35–11–1206 (a) and (b) that limits the lien amount to the cost of reclamation work or the increase in the fair market value in inconsistent with SMCRA and the Federal regulations to the extent that sections 408 (a) and (b) of SMCRA and the Federal regulations at 30 CFR Part 882 do not allow for a lien that is less than the increase in the fair market value of the reclaimed land (i.e., they do not provide for a lien that is equal to the cost of reclamation work if the cost of reclamation work is less than the increase in the fair market value). Therefore, although the Director approves the work ''fair'' in proposed W.S. 35–11–1206(a) and (b), he does not approve the phrases ''cost of the reclamation work or the'' and ''whichever is less'' in W.S. 35–11–1206(a) and the phrase ''but not exceeding the cost of the reclamation work,'' in W.S. 35–11–1206(b). The Director requires Wyoming to remove these phrases from W.S. 35–11–1206(a) and (b).

2. W.S. 35–11–1209, Contractor Eligibility

(a) *W.S. 35–11–1209(a).*—Wyoming proposed to create W.S. 35–11–1209(a) to require that the Division will not issue a contract to any construction contractor or professional services contractor if any surface coal mining and reclamation operation owned or controlled by the contractor, or by any person who owns or controls the contractor, has any (1) delinquent abandoned mine reclamation fees, (2) Federal or State failure-to-abate cessation orders, (3) unabated Federal or State imminent harm cessation orders, (4) delinquent civil penalties issued under SMCRA, (5) bond forfeitures where the violation upon which the forfeiture was based has not been corrected, and (6) unabated violations of Federal or State laws, rules, or regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

There is no direct counterpart to these provisions in SMCRA. However, the Federal regulations at 30 CFR 874.16 (for coal) and 875.20 (for noncoal) do correspond to the proposed State statutory provisions and they provide that every successful bidder for an AMLR contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations and that bidder eligibility will be confirmed by OSM's automated Applicant/Violator System (AVS) for each contract to be awarded.

Wyoming proposed at W.S. 35–11–1209(a) certain provisions concerning issuance of an AMLR contract to any construction contractor or professional services contractor that are substantively identical to counterpart provisions provided at 30 CFR 773.15(b)(1), which is referenced at 30 CFR 874.16 and 875.20. Specifically, Wyoming included at paragraphs (i), (v), and (vi) delinquent abandoned mine reclamation fees, bond forfeitures involving uncorrected violations, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation. The Director finds that the proposed criteria provided at W.S. 35–11–1209(a)(i), (v), and (vi) are in compliance with 30 CFR 874.16 and 875.20 and he approves these provisions.

Wyoming proposed at W.,S. 35–11–1209(a)(ii) and (iii) other requirements that are not in compliance with 30 CFR 874.16 and 875.20. Wyoming's proposed list of criteria that prohibit the awarding of an AMLR contract do not include all of the criteria of the referenced Federal regulation at 30 CFR 773.15(b)(1). In drafting the language for W.S. 35–11–1209(a), Wyoming used provisions substantively identical to language that previously existed in 30 CFR 773.15(b)(1). However, Wyoming was not aware of or did not take into account revisions to this Federal regulation that OSM published in the October 28, 1994, Federal Register (59 FR 54306).

The Federal regulations at 30 CFR 773.15(b)(1) now include, in addition to the criteria included in Wyoming's proposed statute, violations ''of the Act [(SMCRA)], any Federal rule or regulation promulgated pursuant thereto, [and of] a State program.'' Although Wyoming's proposed language includes Federal or State failure-to-abate and imminent harm cessation orders in its criteria list used to determine a contractor's eligibility to receive an AMLR contract, it does not include Federal and State notices of violations and any other ''written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any Federal rule or regulation promulgated pursuant thereto; [or a] State program,'' which is set forth in the definition of ''violation notice'' at 30 CFR 773.5. Therefore, in this respect, proposed W.S. 35–11–1209(a)(ii) and (iii) are not in compliance with 30 CFR 874.16 and 875.20, which reference 30 CFR 773.15(b)(1). The Director requires Wyoming to revise W.S. 35–11–1209(a), or otherwise amend its statute, rules, and/or plan, to include as a criterion for awarding AMLR contracts, Federal and State notices of violations and any other written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any Federal rule or regulation promulgated pursuant thereto; or a State program.

Additionally, Wyoming proposed in its list of criteria that prohibit the awarding of an AMLR contract at W.S. 35–11–1209(a)(iv) the criterion ''delinquent civil penalty issued under SMCRA.'' 30 CFR 874.16 and 875.20, which by reference to the provisions of 30 CFR 773.15(b)(1), implement the provisions of section 518 of SMCRA. This section of SMCRA includes requirements for OSM civil penalty assessments. The Director interprets Wyoming's use of the phrase ''delinquent civil penalty issued under SMCRA'' to mean delinquent civil

penalties issued under any SMCRA State or Federal program. Using this interpretation, the Director finds that W.S. 35–11–1209(a)(iv) is in compliance with 30 CFR 874.16 and 875.20 and is consistent with section 518 of SMCRA. The Director approves this statute.

Finally, Wyoming did not indicate at proposed W.S. 35–11–1209 how the Division will determine whether a construction contractor or professional services contractor is ''eligible'' to receive an AMLR contract. The Federal regulations at 30 CFR 874.16 and 875.20 indicate that bidder eligibility must be confirmed by OSM's AVS for each contract to be awarded.

Because proposed W.S. 35–11–1209 does not include provisions for Wyoming to verify through AVS a contractor's eligibility, the Director requires Wyoming to revise W.S. 35–11–1209, or otherwise revise its statute, rules and/or plan to indicate that any construction contractor or professional services contractor be confirmed through AVS as eligible to receive an AMLR contract prior to receiving the award.

b. *W.S. 35–11–1209(b).*—Wyoming also proposed newly created W.S. 35–11–1209(b) to provide that ''ownership and controlling interest,'' as used in W.S. 35–11–1209, means the same as this term means as defined at 30 CFR Part 773.5. 30 CFR 874.16 and 875.20, by referencing 30 CFR 773.15(b)(1), provide for a review of all reasonably available information concerning ownership and control links. The Federal regulations at 30 CFR 773.5 address ownership and control relationships in the definition of the terms ''owned or controlled'' and ''owns or controls;'' however, 30 CFR 773.5 does not define ''ownership and controlling interest.'' The Director interprets W.S. 35–11–1209(b) to mean that Wyoming's term ''ownership and controlling interest'' has the same meaning as the Federal terms ''owned or controlled'' and ''owns or controls'' at 30 CFR 773.5. The Director also interprets Wyoming's proposed use of the terms ''owned and controlled'' or ''owns or controls'' at W.S. 35–11–1209(a) to mean the same thing as the definitions for these terms at 30 CFR 773.5. The Director finds W.S. 35–11–1209(b) to be in compliance with the ownership and control relationship definitions included at 30 CFR 773.5. Therefore, the Director approves this statutory provision.

(c) *Policy Statement Concerning AVS Contractor Eligibility at W.S. 35–11–1209.*—Wyoming provided a policy statement dated April 21, 1995, that consists of a memorandum prepared by the State's AMLR attorney and addressed to the administrator of the Division. The policy statement specifically excludes subcontractors from the requirements at W.S. 35–11–1209. Wyoming's policy states that any subcontractor would not have to receive AVS clearance before being allowed to work on an AMLR contract. There are no Federal counterpart requirements to Wyoming's proposed policy. However, the preamble for the Federal regulations at 30 CFR 874.16 and 875.20 does not address whether subcontractors must also clear AVS (May 31, 1994; 59 FR 28136, 28158 and 28164). In the absence of any Federal requirements concerning subcontractors, Wyoming's policy is not inconsistent with the Federal regulations at 30 CFR 874.16 and 875.20. If, at any time in the future, OSM decides to promulgate regulations or an interpretive rule to address subcontractors, it would notify Wyoming in accordance with 30 CFR Part 884.15(b) of any needed revisions to the Wyoming plan. For this reason, the Director finds that Wyoming's proposed policy statement issued in support of W.S. 35–11–1209 concerning subcontractors is in compliance with the Federal regulations at 30 CFR 874.16 and 875.20. Therefore, the Director approves the proposed policy statement.

V. Summary and Disposition of Comments

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

1. Public Comments

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

2. Federal Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Wyoming plan (administrative record Nos. WY–AML–18–10 and –11).

The Bureau of Land Management (BLM), Wyoming State Office, responded on June 8, 1995, that the degree of involvement by the subcontractor in the overall project should be considered (administrative record No. WY–AML–18–12). BLM stated that if the involvement of the subcontractor is major, the subcontractor should be subject to the same rules as the contractor. BLM also questioned whether W.S. 35–11–1209 and Wyoming's policy regarding its implementation in Wyoming would set up a system whereby a contractor in violation can have another party bid the project and then subcontract to circumvent the system.

As discussed in finding No. 2(c) above, the Federal regulations at 30 CFR 874.16 and 875.20 are silent as to whether subcontractors are required to pass the same AVS checks required for the successful bidder on an AMLR contract. Because the Federal regulations do not specifically require subcontractors to meet the eligibility requirements applied to the successful bidder for an AMLR contract, OSM cannot require Wyoming to make subcontractors comply with the requirements of W.S. 35–11–1209. In response to BLM's expressed concern that Wyoming's policy may allow a contractor who would not normally pass the AVS check to circumvent the system by becoming a subcontractor on a specific project, OSM acknowledges that the Federal regulations do not prevent this type of occurrence, however, OSM expects that these incidents would be infrequent. If OSM determines that the frequency of such occurrences is greater than expected, it would, as provided in finding No. 2(c) above, promulgate regulations or an interpretive rule to address subcontractors.

The U.S. Army Corps of Engineers responded on June 13, 1995, that it found the amendment to be satisfactory (administrative record No. WY–AML–18–13).

By letter dated June 13, 1995, the Mine Safety and Health Administration (MSHA) stated that the amendment has no apparent impact upon miners' health and safety (administrative record No. WY–AML–18–14). MSHA also indicated that its enabling legislation limits its jurisdiction to specify mining and mining-related activities and does not extend to state contractor reclamation of abandoned mine properties nor to the recovering of costs of reclamation.

The U.S. Department of Agriculture, Natural Resources Conservation Service, responded on June 16, 1995, that it had no comment on the amendment (administrative record No. WY–AML–18–15).

VI. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and additional requirements, Wyoming's proposed plan amendment as submitted on April 21, 1995, and as supplemented with additional explanatory information on August 29, 1995.

The Director approves, as discussed in finding No. 1, certain revisions to

W.S. 35–11–1206 (a) and (b), concerning the placement of liens on private lands adversely affected by past coal and mineral mining practices. With the requirement that Wyoming further revise its statute, rules, and/or plan, the Director does not approve, as discussed in Finding No. 1, other revisions to W.S. 35–11–1206 (a) and (b), concerning the use of the cost of reclamation in determining the amount of liens for reclamation on private land.

With the requirement that Wyoming further revise its statute, rules, and/or plan, the Director approves, as discussed in finding No. 2(a), W.S. 35–11–1209(a), concerning contractor eligibility.

The Director approves, as discussed in finding No. (2)(b), W.S. 35–11–1209(b), concerning ownership and control relationships, and finding No. (2)(c), an April 21, 1995, policy statement for W.S. 35–11–1209, concerning subcontractors.

In accordance with 30 CFR 884.15(e), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 950.36 that Wyoming must by the date indicated submit to OSM a reasonable timetable, which is consistent with Wyoming's established administrative or legislative procedures, for submitting an amendment to the State reclamation plan.

The Federal regulations at 30 CFR Part 950, codifying decisions concerning the Wyoming plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VII. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State AMLR plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix, 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 950

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 12, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, part 950 of the Code of Federal Regulations is amended as set forth below:

PART 950—WYOMING

1. The authority citation for part 950 continues to read as follows:

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

2. Section 950.35 is amended by adding paragraph (c) to read as follows:

§ 950.35 Approval of abandoned mine land reclamation plan amendments.

* * * * *

(c) With the exceptions of Wyoming Statute (W.S.) 35–11–1206(a) to the extent that it includes the phrases ''cost of reclamation work or the'' and '', whichever is less'' and W.S. 35–11–1206(b) to the extent that it includes the phrase '', but not exceeding the cost of the reclamation work,'' the revisions to W.S. 35–11–1206 (a) and (b), concerning lien authority on private lands, and the addition of newly created W.S. 35–11–1209 (a) and (b), including the policy statement dated April 21, 1995, concerning contractor eligibility, as submitted to OSM on April 21, 1995, and as supplemented with additional information on August 29, 1995, are approved effective February 21, 1996.

3. Section 950.36 is added to read as follows:

§ 950.36 Required abandoned mine land plan amendments.

Pursuant to 30 CFR 884.15, Wyoming is required to submit to OSM by the date specified a reasonable timetable, which is consistent with Wyoming's established administrative and legislative procedures, for submitting an amendment to the State reclamation plan.

(a) By March 22, 1996, Wyoming shall submit a schedule for revising W.S. 35–11–1206(a) to remove the phrases ''cost of reclamation or the'' and '', whichever is less'' and revising W.S. 35–11–1206(b) to remove the phrase '', but not exceeding the cost of the reclamation work,''.

(b) By March 22, 1996, Wyoming shall submit a schedule for revising W.S. 1209(a), or otherwise revise its statute, rules and/or plan, to include:

(1) Notices of violation in the criteria for determining the eligibility of construction contractors or professional services contractors awarded an abandoned mine land reclamation contract; and

(2) A requirement that a contractor's eligibility shall be confirmed using OSM's Applicant/Violator System.

[FR Doc. 96–3820 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

Collection From Third Party Payers of Reasonable Costs of Healthcare Services

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule establishes a new rule under the Third Party Collection program for determining the reasonable costs of health care services provided by facilities of the uniformed services in cases in which care is provided under TRICARE Resource Sharing Agreements. For purposes of the Third Party Collection program such services will be treated the same as other services provided by facilities of the uniformed services. The final rule also lowers the high cost ancillary threshold value from $60 to $25 per 24-hour day for patients that come to the uniformed services facility for ancillary services requested by a source other than a uniformed services facility. The reasonable costs of such services will be accumulated on a daily basis. The Department of Defense is now implementing TRICARE, a major structural reform of the military health care system, featuring adoption of managed care practices in military hospitals and by special civilian contract provider networks. Consistent with TRICARE, as part of the Third Party Collection Program, DoD is transitioning to a billing and collection system in which all costs borne by DoD Medical Treatment Facilities (MTFs) will be billed by the MTF providing the care. Thus, all care performed within the facility, plus an added amount for supplemental care purchased by the facility, will be billed by the MTF. Conversely, care provided outside the MTF under other arrangements will be billed by the provider of that care.

DATES: The amendment to § 220.8(h) is effective March 15, 1996, and the amendment to § 220.8(k) is effective June 1, 1996.

FOR FURTHER INFORMATION CONTACT: LCDR Patrick Kelly, (703) 681–8910.

SUPPLEMENTARY INFORMATION: DoD published the proposed rule on August 2, 1995 (60 FR 39285–39287). We received two responses from the public during the 60 day public comment period. Both responses concerned resource sharing fee-for-service arrangements these organizations had negotiated prior to these proposed changes to 32 CFR part 220. Both comments recommended that existing resource sharing fee-for-service agreements continue to be treated as fee-for-service partnership agreements on the grounds that the proposed changes would require significant changes to their existing agreements. It is our view that the advantages of the rule overcome the temporary difficulties for TRICARE contractors. However, in response to these comments, we have decided to defer until June 1, 1996, the effective date of this change. This will give the affected contractors time to make appropriate arrangements under the new procedure.

Currently, the Third Party Collection program regulation includes a special rule for Partnership Program providers. The Partnership Program allows civilian health care providers authorized to provide care under the CHAMPUS program to provide services to CHAMPUS beneficiaries in military hospitals and to receive payment from the CHAMPUS program. Pursuant to CHAMPUS payment rules, CHAMPUS is always the secondary payer to other health insurance plans; thus, CHAMPUS may not make payment to the Partnership Program provider in cases in which the beneficiary has other health insurance. To accommodate this CHAMPUS requirement, the Third Party Collection program currently excludes Partnership Program provider services from the military hospital claims. Thus, for example, for inpatient hospital care, the Third Party Payer now receives two claims, one from the military facility for the hospital and ancillary costs, and a separate claim from the provider for the professional services.

The current practice has produced some confusion in that it is a departure from the normal procedure for claims arising from care provided by military hospitals. In addition, because the Partnership Program providers function independently from the military hospital's management system, there are no DoD standards that govern the amounts claimed by various Partnership Program providers.

DoD is now proceeding with implementation of a major managed care program, called TRICARE, in its military medical treatment facilities and CHAMPUS. Under TRICARE, regional managed care support contractors will work with military treatment facilities on a wide range of managed care activities. Among the activities of the managed care contractors is the Resource Sharing Program. Under this program, the contractor makes agreements with military hospitals in the region under which the contractor will supply personnel and other resources in order to allow the facility to increase the services it can make available to DoD health care beneficiaries. The TRICARE program is the subject of a final rule published October 5, 1995 (60 Federal Register 52078–52103), with comprehensive regulations codified at 32 CFR 199.17. TRICARE Resource Sharing Agreements are similar to Partnership Program payment arrangements in that both result in civilian providers coming into the military facility and providing care in that facility. However, a significant difference exists in the method of payment. Under the Partnership Program, payment is on a fee-for-service basis under the normal operation of the CHAMPUS program. Under Resource Sharing, the method of payment may be on a salary basis or other arrangement made by the managed care support contractor. Under the Partnership Program, the CHAMPUS second payer requirement applies. Under Resource Sharing Agreements, the overall managed care contract separates the financing from the normal CHAMPUS payment rules and allows for special payment rules.

Based on this, we are establishing a special rule for Resource Sharing Agreements. Or, more accurately, we are establishing the normal rule for Resource Sharing Agreements. That is to say that care provided in whole or in part through TRICARE Resource Sharing Agreements will be handled for purposes of third party billings just like all other services provided in the military facility, and will be billed at the same rates. The special rule applicable to the Partnership Program providers, under which two claims are made to the third party payer, will not apply under TRICARE Resource Sharing Agreements. As a result, care provided in military facilities will be billed to third party payers in the same manner and same amount, regardless of whether the professional services were provided by a military physician or Resource Sharing Agreement provider.

The TRICARE program is being phased in region-by-region throughout the United States. As it takes hold, the Partnership Program is being phased out and replaced by TRICARE Resource Sharing Agreements. Thus, possibly before the end of 1997, the special Partnership Program rule will no longer be needed, and the simpler, single-claim rule for TRICARE Resource Sharing Agreements will apply. We view this as both a simplification and an improvement in the Third Party Collection program.

DoD published the proposed rule on August 2, 1995, (60 Federal Register

39285–39287). We received two responses from the public during the 60 day public comment period. Both responses concerned resource sharing fee-for-service arrangements these organizations had negotiated prior to these proposed changes to 32 CFR part 220. Both comments recommended that existing resource sharing fee-for-service agreements continue to be treated as fee-for-service partnership agreements on the grounds that the proposed changes would require significant changes to their existing agreements. It is our view that the advantages of the rule overcome the temporary difficulties for TRICARE contractors. However, in response to these comments, we have decided to defer until June 1, 1996, the effective date of this change. This will give the affected contractors time to make appropriate arrangements under the new procedure. With respect to regulatory procedures, this final rule is not a significant regulatory action under Executive Order 12866, nor does it significantly affect a substantial number of small entities under the Regulatory Flexibility Act, nor impose new information collection requirements under the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 220

Claims, Health care, Health insurance.

For the reasons stated in the preamble, 32 CFR part 220 is amended as follows:

PART 220—COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

1. The authority citation for 32 CFR part 220 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1095.

2. Section 220.8 is amended by revising paragraphs (h) and (k) to read as follows:

§ 220.8 Reasonable costs.

* * * * *

(h) *Special rule for certain ancillary services ordered by outside providers and provided by a facility of the Uniformed Services.* If a Uniformed Services facility provides certain ancillary services, prescription drugs or other procedures requested by a source other than a Uniformed Services facility and are not incident to any outpatient visit or inpatient services, the reasonable cost will not be based on the usual Diagnostic Related Group (DRG) or per visit rate. Rather, a separate standard rate shall be established based on the accumulated cost of the particular service, drugs, or procedures provided during a twenty-four hour period ending at midnight. Effective March 15, 1996, this special rule applies only to services, drugs or procedures having a cost of at least $25. The reasonable cost for the services, drugs or procedures to which this special rule applies shall be calculated and made available to the public annually.

* * * * *

(k) *Special rules for TRICARE Resource Sharing Agreements and Partnership Program providers.*

(1) *In general.* Paragraph (k) establishes special Third Party Collection program rules for TRICARE Resource Sharing Agreements and Partnership Program providers.

(i) TRICARE Resource Sharing Agreements are agreements under the authority of 10 U.S.C. 1096 and 1097 between uniformed services treatment facilities and TRICARE managed care support contractors under which the TRICARE managed care support contractor provides personnel and other resources to the uniformed services treatment facility concerned in order to help the facility increase the availability of health care services for beneficiaries. TRICARE is the managed care program authorized by 10 U.S.C. 1097 (and several other statutory provisions) and established by regulation at 32 CFR 199.17.

(ii) Partnership Program providers provide services in facilities of the uniformed services under the authority of 10 U.S.C. 1096 and the CHAMPUS program. They are similar to providers providing services under TRICARE Resource Sharing Agreements, except that payment arrangements are different. Those functioning under TRICARE Resource Sharing Agreements are under special payment arrangements with the TRICARE managed care contractor; those under the Partnership Program file claims under the standard CHAMPUS program on a fee-for-service basis.

(2) *Special rule for TRICARE Resource Sharing Agreements.* Services provided in facilities of the uniformed services in whole or in part through personnel or other resources supplied under a TRICARE Resource Sharing Agreement are considered for purposes of this part as services provided by the facility of the uniformed services. Thus, third party payers will receive a claim for such services in the same manner and for the same costs as any similar services provided by a facility of the uniformed services. This paragraph (k)(2) becomes effective June 1, 1996.

(3) *Special rule for Partnership Program providers.* For inpatient services for which the professional provider services were provided by a Partnership Program participant, the professional charges component of the bill will be deleted from the claim from the facility of the uniformed services. In these cases, the uniformed service facility's claim shall not be considered solely a ''facility charge.'' As an all-inclusive bill, room and board, nursing services and all ancillary services (radiology, pharmaceuticals, respiratory therapy, etc.) are factored into the bill. The third party payer will receive a separate claim for professional services directly from the individual health care provider. The same is true for the professional services provided on an outpatient basis under the Partnership Program. Claims from Partnership Program providers are not covered by 10 U.S.C. 1095 or this part, but are governed by statutory and regulatory requirements of the CHAMPUS program.

* * * * *

Dated: February 12, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3518 Filed 2–20–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 95–055]

RIN 2115–AF18

Recreational Vessel Fees

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As part of the President's Regulatory Reinvention Initiative review, the Coast Guard is removing obsolete regulations requiring payment of recreational vessel fees (RVF). The High Seas Driftnet Fisheries Enforcement Act of 1992 repealed the authority for RVF beginning with fiscal year 1995. The Coast Guard stopped collecting the fees on October 1, 1994. The RVF regulations are no longer valid and are being removed from the Code of Federal Regulations.

EFFECTIVE DATE: February 21, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through

Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Project Manager, Auxiliary, Boating, and Consumer Affairs Division, (202) 267–0979.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended 46 U.S.C. 2110 and required the Secretary of Transportation to establish a fee or charge for recreational vessels and to collect it annually in fiscal years (FY) 1991 through 1995 from the vessel owner or operator. The Act applied to recreational vessels greater than 16 feet in length, operated on the navigable waters of the United States where the Coast Guard has a presence. The Coast Guard issued regulations in 33 CFR subpart 1.30 to implement the Act, after notice and public comment (56 FR 30244; July 1, 1991).

Section 501 of the High Seas Driftnet Fisheries Enforcement Act (Pub. L. 102–582), enacted November 2, 1992, amended 46 U.S.C. 2110(b)(1) to reduce the number of recreational vessels subject to the annual fee by changing the vessel length categories subject to the fee for fiscal years 1993 and 1994, and by eliminating the fee on October 1, 1994. The Coast Guard revised 33 CFR subpart 1.30 by publishing an interim final rule (58 FR 8884; February 17, 1993) and final rule (59 FR 22129; April 29, 1994).

As part of the President's Regulatory Reinvention Initiative review, the Coast Guard is removing the regulations which established a recreational vessel fee (RVF). This rule is the final action to implement Pub. L. 102–582. It removes the RVF regulations in 33 CFR Subpart 1.30 which are no longer necessary.

Because the fees were eliminated by Pub. L. 102–582 on 1 October, 1994, and the fees have not been collected since then, the Coast Guard finds good cause, under 5 U.S.C. 553 (b)(3)(B) and (d)(3), why notice and public procedure before publication of the rule are unnecessary and that the rule should be made effective in less than 30 days after publication.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order, nor has it been reviewed by the Office of Management and Budget. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Assessment is unnecessary.

Collection of Information

The information collection approved for 33 CFR subpart 1.30 by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) expired on January 1, 1995. The subpart number was 33 CFR subpart 1.30 and the former corresponding OMB approving number was OMB Control Number 2115–0588. This rule contains no collection-of-information requirements under the Paperwork Reduction Act.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e(34)(a) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties, Fees.

Subpart 1.30—[Removed]

Under the authority of 14 U.S.C. 633, subpart 1.30 is removed.

Dated: February 5, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 96–3698 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–59–1–6928a; FRL–5400–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of Florida through the Florida Department of Environmental Protection (FDEP) for the purpose of including the Small Business Stationary Source Technical and Environmental Compliance Assistance Program rules in the Florida Administrative Code, Chapters 17–202.100 through 17.202.400. This implementation plan was submitted by the State on August 12, 1994.

DATES: This action is effective April 22, 1996 unless notice is received March 22, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

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

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

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

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

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia

30365. The telephone number is 404/347–3555 x4195.

SUPPLEMENTARY INFORMATION:

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

Section 507 (a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The State of Florida has addressed these requirements and has established a PROGRAM which was approved by EPA on February 14, 1995 (See 60 FR 6306). As a result of the preceding requirements, the State of Florida through the FDEP on August 12, 1994, submitted a revision to include rules for the PROGRAM in the Florida Administrative Code, Chapters 17–202.100 through 17.202.400. The following is a brief description of what each chapter addresses:

1. Chapter 17–202.100 establishes procedures for notifying small businesses of their rights and assures an opportunity for public comment on any petition filed by any air pollution source seeking inclusion in the small business assistance program.

2. Chapter 17–202.200 identifies the definition of the words and phrases used in Chapter 17.202.

3. Chapter 17–202.300 outlines the procedures for notifying small businesses of the rights and obligations to federal and state requirements.

4. Chapter 17–202.400 establishes the procedures that will be used by the Department to provide public notice and comments on actions taken by the state.

Final Action

In this action, EPA is approving the SIP revision to include the Small Business Stationary Source Technical and Environmental Compliance Assistance program in the Florida Administrative Code, Chapter 17–202, that was submitted by the State of Florida through the Department of Environmental Protection. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 22, 1996 in the Federal Register, unless notice is received by March 22, 1996 that adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 22, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), 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.

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

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

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

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), P.L. 104–4, establishes requirements for the Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written

statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Through submission of the SIP or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The submission approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the submission being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 52

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

Dated: December 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(92) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(92) The Florida Department of Environmental Protection has submitted revisions to the Florida State Implementation Plan on August 12, 1994. These revisions address including the Small Business Stationary Source Technical and Environmental Program in the Florida Administrative Code, Chapter 17–202.

(i) Incorporation by reference.

(A) Chapter 17–202, Small Business Stationary Source Technical and Environmental Compliance Assistance Program adopted on June 30, 1994.

(ii) Additional material. None.

[FR Doc. 96–3790 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MI37–01–6713a; FRL–5422–5]

Approval and Promulgation of State Implementation Plan; Michigan; Site-Specific SIP Revision for the Enamalum Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a revision to the Michigan State Implementation Plan (SIP) for ozone that was submitted on August 26, 1994 by the State of Michigan. This revision is a site-specific SIP revision that determines the appropriate reasonably available control technology (RACT) level for volatile organic compound (VOC) emissions from the Enamalum Corporation Novi, Michigan facility. This approval of the site-specific SIP revision allows for a limit higher than that found in the control technology guidance (CTG) document for this source category. Approval of this site-specific SIP revision is based upon the argument that the Enamalum Corporation facility cannot afford the controls normally required by the State's RACT rule. In the proposed rules section of this Federal Register, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this Federal Register. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's consent order that has been incorporated by reference.

DATES: This ''direct final'' is effective on April 22, 1996, unless EPA receives adverse or critical comments by March 22, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

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

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6960.

SUPPLEMENTARY INFORMATION:

I. Background

The Enamalum Corporation owns a facility located in Novi, Michigan that

performs metal coating operations. Because this facility is located in what was the Detroit-Ann Arbor moderate ozone nonattainment area and because its VOC emissions exceed the applicability cutpoint found in Michigan's RACT rule for this source category (*R 336.621 Emission of volatile organic compounds from existing metallic surface coating lines* or ''Rule 621''), it is subject to the RACT requirements for this source category. The State of Michigan has adopted the requirements found in EPA's CTG for this source category (''Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface coating of Miscellaneous Metal Parts and Products'') and the State's Rule 621 has been approved into the federally enforceable Michigan SIP.

The EPA issued CTG requires the prescriptive coating limit of 3.5 pounds of VOC per gallon of coating, minus water, as applied. Michigan's Rule 621 reflects this requirement.

The State of Michigan issued a consent order, Stipulation for Entry of Final Order By Consent SIP No. 6–1994, to the Enamalum Corporation that allows this facility to exceed the VOC emission limit established in Michigan's Rule 621. Specifically, the consent order allows the facility to use coatings with a 6.5 pounds of VOC per gallon of coating (minus water) as applied, limit.

The State of Michigan, on behalf of the Enamalum Corporation, has submitted to EPA a site-specific SIP revision requesting that the State's consent order now be approved into the Michigan SIP.

II. Evaluation of State Submittal

Michigan submitted this site-specific SIP revision to the EPA on August 26, 1994 under the signature of the Governor's designee, Roland Harmes, Director of the former Michigan Department of Natural Resources (now called the Michigan Department of Environmental Quality, but for purposes of this document the abbreviation ''MDNR'' will be used). The EPA found this rule to be complete in a letter to Roland Harmes dated November 8, 1994. The MDNR followed the required legal procedures for adopting this rule which are prerequisites for EPA to consider including this rule in Michigan's federally enforceable ozone SIP. A public comment period on this rule was open from March 25, 1994 through April 26, 1994, and a public hearing for this rule was held on April 26, 1994.

The MDNR has submitted for approval into the federally enforceable SIP the consent order that it has issued for the Enamalum Corporation's Novi facility. The basis for arguing that this site-specific SIP revision should be approved into the SIP, is that this facility cannot reasonably afford the controls required by Michigan's Rule 621.

A number of controls have been considered by the Enamalum Corporation and none have been found to be considered reasonable and have been eliminated as potential RACT options.

A. Process Description

The Enamalum Corporation applies a high performance architectural coating, Kynar 500, to aluminum extrusions used on commercial, storefront, and high-rise buildings. The Kynar 500 coating emits, on average, 6.1 pounds of VOC per gallon of coating when applied. This coating is being used because it meets the American Architectural Manufacturer's Association (AAMA) specification 605.2–1985 as a high performance architectural coating. Few other coatings are able to meet both this AAMA standard and the VOC RACT limit.

B. Control Scenario I—Powder Coatings

Powder coatings are currently available as substitutes for the liquid Kynar 500 coating. These powder coatings are able to meet both the AAMA standard and the Michigan VOC RACT limit but are not considered reasonable in terms of cost for the Enamalum Corporation.

The Enamalum Corporation is currently using powder coatings on some of its products but has not been able to use these coatings in a cost-effective manner on their outdoor products that will be exposed to extreme environmental conditions. The Enamalum Corporation has found that the amount of powder coating needed to produce a desirable product would increase the cost of the product to such a degree that their customers would no longer purchase their product. The cost of coating more than doubles when powder coatings are used in place of the liquid Kynar 500 coating. Also, the company has provided information indicating that the cost of powder coatings as means of a VOC control is beyond what would normally be considered RACT on a dollars per ton of VOC controlled basis. For these reasons, the use of powder coatings has been eliminated as a RACT option on basis of economic reasonability.

C. Add-On Incineration

The use of an add-on incinerator, like the use of powder coating, is considered to be a technically feasible way to control the emissions of VOCs from this source. However, because of economic considerations, it has also been eliminated as a RACT option.

Add-on incineration generally is considered to be economically reasonable on a dollars per ton of VOC reduced basis. However, MDNR was found that the expense of an incinerator is not affordable for this specific source.

The Enamalum Corporation has submitted information demonstrating that the net present value of the company after purchasing and operating an incinerator would be less than the net present value of the company if the facility were to shut down. When a company is able to make this demonstration for a control technique, this control technique is considered to be unaffordable by that company.

III. Final Rulemaking Action

The EPA approves Michigan's site-specific SIP revision, thereby making this consent order federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 22, 1996. However, if we receive adverse comments by March 22, 1996, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

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

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976).

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

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(103) to read as follows:

§ 52.1170 Identification of Plan.

* * * * *

(c) * * *

(103) On August 26, 1994 Michigan submitted a site-specific SIP revision in the form of a consent order for incorporation into the federally enforceable ozone SIP. This consent order determines Reasonably Available Control Technology (RACT) specifically for the Enamalum Corporation Novi, Michigan facility for the emission of volatile organic compounds (VOCs).

(i) Incorporation by reference. The following Michigan Stipulation for Entry of Final Order By Consent.

(A) State of Michigan, Department of Natural Resources, Stipulation for Entry of Final Order By Consent No. 6–1994 which was adopted by the State on June 27, 1994.

[FR Doc. 96–3788 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MN28–02–7253; FRL–5402–2]

Approval and Promulgation of Implementation Plans (Minnesota)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving a year-round oxygenated fuels program as a revision to Minnesota's State Implementation Plan (SIP) for carbon monoxide (CO). The use of oxygenated fuels can reduce emissions of CO from vehicles, thereby reducing the threat to human health posed by CO, which can contribute to heart and lung disease and reduce the concentration of oxygen in the blood stream. Minnesota already has an approved SIP which requires the use of oxygenated fuels during the winter; the extension of the oxygenated fuels program beyond the winter months will serve as the contingency measure required for nonattainment plans under section 172(c)(9) of the Clean Air Act (the Act). USEPA's action is based upon a SIP revision request which was submitted by the State to satisfy the requirements of the Act.

DATES: This final rule is effective on March 22, 1996.

ADDRESSES: Copies of the SIP revision request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Alexis Cain at (312) 886–7018 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AT–18J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Alexis Cain, Air Toxics and Radiation Branch, Regulation Development Section (AT–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–7018.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 12, 1993, the Commissioner of the Minnesota Pollution Control Agency submitted elements of a contingency measure for the carbon monoxide nonattainment area in the Twin-Cities area of the State. This area includes the following counties which comprise the CO control area: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright.[1] The State's

[1] St. Louis County (in the Duluth-Superior, Wisconsin MSA) was redesignated to attainment for carbon monoxide on April 14, 1994. The maintenance plan contains a ''park and ride'' measure to reduce vehicle miles traveled in the event maintenance cannot be assured. If the first choice measure (park and ride) does not succeed in reducing the CO concentrations the State will

Continued

CO contingency plan consists of an expansion of the State's existing wintertime oxygenated gasoline program to a year-round program beginning on October 31, 1995. The program requires gasoline sold in the control area of the Twin Cities to contain no less than 2.0 percent oxygen and average 2.7 percent oxygen during the control period. On January 25, 1994, the USEPA issued a letter stating that the submittal was complete except for two items: the public hearing process and a report of the results of a study regarding the year-round use of ethanol as the oxygenate and its effect on summer-time ozone concentrations. The results of the public hearing process were received in a letter from the Commissioner of the MPCA on January 26, 1994, and contained the required information demonstrating that the public process was carried out. The letter included a report prepared by an environmental consultant regarding the year-round use of ethanol in the State. USEPA requested this report because of the potential for increased evaporative emissions of hydrocarbons resulting from splash blending ethanol in gasoline. The emission of hydrocarbons during summertime conditions results in the formation of tropospheric ambient ozone.

The State submittal was submitted to satisfy the provisions under section 172(c)(9) of the Clean Air Act (Act), which requires contingency measures in moderate CO nonattainment areas with design values of 12.7 parts per million or less. These contingency measures must be implemented in the event the area fails to attain the national standard by December 31, 1995. Contingency measures, once triggered, are to take effect automatically, without further rulemaking action by the State or the Administrator. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions.

A proposed rulemaking was published in the June 1, 1995 Federal Register (60 FR 28557), which proposed approval of the CO contingency SIP, but raised invited public comment on three issues: potential increases in ozone concentrations as a result of the use of oxygenated fuels in the summer months; potential problems in enforcing the program in the event that a possible future increase in the price of ethanol (which is the oxygenate in use in Minnesota) gives fuel retailers and/or blenders an incentive not to comply with the program, and the need to define an endpoint for reporting purposes in the oxygenate program.

II. Public Comment/USEPA Response

USEPA received comments on the proposed rulemaking from KOCH Refining and the Minnesota Department of Agriculture.

KOCH Refining Comments and USEPA Response

KOCH requested that the USEPA disapprove the proposed contingency measure because:

(1) There is no need for summertime CO reductions, based on current and historical summertime CO ambient monitoring;

(2) The lack of an end point for reporting purposes will lead to unnecessary regulatory complications;

(3) There is great potential for increases in ambient ozone concentrations due to use of year-round oxygenated fuel; and

(4) There is great potential for adverse impacts in price and availability of gasoline in the event of reduction or curtailment of federal or state subsidies for ethanol production and blending.

Comment 1: There is no need for summer time CO reductions, based on current and historical summertime CO ambient monitoring.

While there has not been a violation of the CO air quality standard since 1991, several of the exceedances which contributed to violations between 1987 and 1991 were registered outside of the current four-month program period. Moreover, the most recent exceedance of the standard occurred during the summer of 1995. Therefore, the USEPA believes that the extension of the program beyond the winter months, which seems to have been effective in reducing ambient CO concentrations, will be useful in providing a margin of protection against exceedances outside of the current program period.

Comment 2: The lack of an end point for reporting purposes will lead to unnecessary regulatory complications.

In the proposal action, USEPA noted that while the oxygenated gasoline program requires reports to be submitted by registered blenders of oxygenated fuels at the end of the control period, the end of the control period has not been defined for the year-round program. The State has been made aware of this minor technical problem, and is exploring means to correct it. The USEPA believes that this problem can be resolved without difficulty, and that it is not an adequate reason to delay final rulemaking.

Comment 3: There is great potential for increases in ambient ozone concentrations due to use of year-round oxygenated fuel.

The addition of ethanol to gasoline raises the vapor pressure of the mixture to a level higher than that of either of the two components. The USEPA allows a one pound per square inch (psi) waiver for gasolines containing up to 10 volume percent ethanol. So, for example, the vapor pressure of gasoline sold during summer months is limited to nine psi. However, a gasoline blend of 10 volume percent ethanol may have a vapor pressure of 10 psi. This increase in vapor pressure may lead to higher evaporative emissions of volatile organic compounds (VOCs), which are precursors of ozone, potentially increasing the formation of ozone.

While the use of oxygenated fuels during the summer (the ozone season) may lead to increases in ambient ozone concentrations, the USEPA has no basis for disapproving the CO contingency SIP request since there is no information available that indicates that it will lead to violations of the ozone NAAQS. Section 110(l) of the Act prohibits USEPA from approving a SIP if it would interfere with any applicable requirement concerning attainment or reasonable further progress, or any other applicable requirement of the Act. Since Minnesota has no nonattainment areas for ozone, reasonable further progress is not an issue; the only concern is whether use of oxygenated fuels jeopardizes the attainment status of the Twin Cities.

KOCH argues that a possible tightening of the ozone NAAQS could make it more difficult to avoid a violation. However, USEPA cannot base its current rulemaking on speculation about future changes in the standard. Koch also argues that the possibility of hotter summers in the future, which would be more conducive to ozone formation, makes it risky to implement the oxygenated fuels program during the summer. However, USEPA concludes that there is no available evidence that use of oxygenated fuels will lead to violation of the standard in the Twin Cities. Air quality data show no exceedances or violations of the ozone standard in the last four years, with the last exceedance recorded in 1990. Moreover, there is some dispute over the extent to which ethanol will increase ozone formation. A study contracted by MPCA (discussed below) found that ethanol might slightly reduce ozone formation; while USEPA disputes this study's methodology and still believes that some ozone increases are possible as a result of the oxygenated

consider the implementation of an oxygenated gasoline program.

fuels program, the magnitude of these increase in the Twin Cities cannot be determined. Furthermore, ethanol blends are already in use year-round in Minnesota, with 50 percent or greater market penetration during the past 3 ozone seasons, without causing an exceedance of the ozone standard. An increase from more than 50 percent use of ethanol blends to nearly 100 percent is not likely to lead to a significant increase in ozone.

The Minnesota Pollution Control Agency submitted a contractor's report which suggested that the use of ethanol would not cause violations of the ozone standard.[2] The USEPA reviewed the report and found that it was flawed in a number of areas including: uncertainty on how to take into account VOC reactivity; incorrect speciation profiles; inability to replicate exhaust VOC benefit of the ethanol blends; lack of evidence to support the contention of an enrichment benefit for ethanol, and the use of excessively high highway speeds in the modelling. Despite USEPA's criticism of this study, no new information was submitted by the consultant or the State. The USEPA's comments on this report remain unchanged. However, KOCH did not provide any additional studies which demonstrate that there will be ozone violations as a result of summertime ethanol use.

Comment 4: There is great potential for adverse impacts in price and availability of gasoline in the event of reduction or curtailment of federal or state subsidies for ethanol production and blending.

Koch expressed concern that federal codification of this existing program will reduce the State's ability to respond flexibly to price increases and disruptions in availability. KOCH believes that a hypothetical reduction or elimination of federal and State ethanol subsidies, which amount to as high as 89 cents per gallon of pure ethanol, will not lead to ''cheating'' as suggested in the USEPA proposal. Instead, Koch is concerned that limited oxygenate availability would lead to a tight supply of blended specification gasoline and price increases. Koch expects the potential for shortages to increase in 1997 when the oxygenated gasoline program area is expected to be expanded to cover the entire State.

The State does not expect or anticipate a change in the subsidy program associated with the use of ethanol. If there is a change in State and/or Federal subsidies, the USEPA believes the state does have the flexibility to discontinue the measure, assuming that no violation of the CO NAAQS occur. The USEPA would retain the contingency measure as a Section 172(c) requirement, however, which the State would need to implement if the area fails to attain the CO standard by the attainment date. If the area fails to attain and the State shuts the program off, the USEPA has the authority to require the implementation or continued operation of the program. If the area is in attainment (through a redesignation process) and the State wishes to eliminate the program as even a contingency measure, the State would need to identify a substitute contingency program.

Minnesota Department of Agriculture Comments and USEPA Response

The Minnesota Department of Agriculture objected to statements in the proposed rulemaking that the year-round use of ethanol could lead to increased ozone pollution. The Department of Agriculture argues that air quality studies have shown that increased ozone will not result.

As stated above, USEPA does not believe that this issue has been resolved conclusively. While it is possible to make a case that increased ozone concentrations may result from summertime use of oxygenated gasoline, it cannot be shown that violations of the NAAQS will result. Thus, USEPA is approving the program.

III. Rulemaking Action

The USEPA is approving the Minnesota year-round oxygenated fuels program as the CO contingency measure required for nonattainment plans under section 172(c)(9) of the Clean Air Act.

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

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), 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 Executive Order 12866 review.

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

Note—Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: November 6, 1995.

David A. Ullrich,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401—7671q.

Subpart Y—[Amended]

2. Section 52.1220 is amended by adding paragraph (c)(43) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(43) On November 12, 1993, the State of Minnesota submitted a contingency plan to control the emissions of carbon monoxide from mobile sources by use of oxygenated gasoline on a year-round basis. The submittal of this program satisfies the provisions under section 172(c)(9) and 172(b) of the Clean Air Act as amended.

[2] Systems Applications International, Ozone Impact of Year-Round Oxy-Fuel Program in Minnesota, San Rafael, CA, January 10, 1994.

(i) Incorporation by reference.

(A) Laws of Minnesota for 1992, Chapter 575, section 29(b), enacted by the legislature and signed into law on April 29, 1992.

[FR Doc. 96–3789 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300411; FRL–4995–9]

RIN 2070–AC78

Acrylate Polymers/copolymers; Exemptions From The Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes a generic exemption from the requirement of a tolerance for acrylate polymers and copolymers when used as inert ingredient in pesticide formulations applied on raw agricultural commodities. This tolerance exemption covers the acrylate polymers/copolymers which are intrinsically safe and already listed in the TSCA inventory or will meet the polymer tolerance exemption from requirements of premanufacturing notification. Polymers that are exempted can be used as dispensers, resins, fibers, and beads, as long as the fibers, beads and resins particle sizes are greater than 10 microns and insoluble in water. Polymers with high molecular weights (3,000 to 100,000 daltons) are generally not readily absorbed through the intact skin or intact gastrointestinal (GI) tract. Polymers with particle size greater than 10 microns are generally not readily absorbed by respiration. Chemicals not absorbed through the skin, GI tract, and respiratory system are generally incapable of eliciting a toxic response. This exemption pertains to the acrylate polymers/copolymers used as inert ingredient for sprayable and dispenser pesticide formulations that are used on food crops. Any acrylate polymers/copolymers used for encapsulating material must be cleared as an inert ingredient when used in pesticide formulations that are applied on food crops.

EFFECTIVE DATE: This regulation becomes effective February 21, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP OPP–300411], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington , DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300411]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Freshteh Toghrol, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor, Crystal Station 1, 2800 Crystal Drive, Arlington, VA 22202; (703) 308–7014, e-mail:toghrol.freshteh@epamail.epa.gov

SUPPLEMENTARY INFORMATION: In the November 15, 1995 Federal Register (PF–631; FRL–4971–5) EPA issued a notice of filing PP 5E4524 at the request of Russel Cook Associates, REDA Bldg., Suit 217, 401 S.E. Dewey, Bartlesville, OK 74005, on behalf of Biosys, by establishing an generic exemption from the requirement of a food tolerance for acrylate polymers and copolymers which fit the Toxic Substances Control Act (TSCA) definition of polymers which are intrinsically safe. This tolerance exemption covers the acrylate polymers/copolymers that are already listed in the TSCA inventory or will meet the polymer tolerance exemption under 40 CFR 723.250 as amended on March 29, 1995.

I. Background

Inert ingredients are substances, other than the active ingredient, which are intentionally included in a pesticide product as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients: solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers, copolymers, and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' does not imply lack of toxicity; the ingredient may or may not be chemically active.

For the purposes of this exemption, acrylate polymers/copolymers used as inert ingredients in an end-use formulations must meet the definition for a polymer as given in 40 CFR 723.250 (b), are not automatically excluded by 40 CFR 723.250 (d), and meet the tolerance exemption criteria 40 CFR 723.250 (e)(1), 40 CFR 723.250 (e)(2) or 40 CFR 723.250(e)(3). Therefore, acrylate polymers and copolymers that are already listed in the TSCA inventory or will meet the polymer tolerance exemption under 40 CFR 723.250 as amended on March 29, 1995 are covered by this exemption.

The Agency believes that the acrylate polymers/copolymers meeting the criteria noted above and outlined as follows will present minimal, if any risk to human health when used as inert ingredients in pesticide formulations applied to growing raw agricultural commodities.

1. The acrylate polymer/copolymers minimum molecular weight may range from 3,000 to greater than 100,000 daltons as are established under 40 CFR 180.1112 and 40 CFR 180.1001(c). Substances with high molecular weights (greater than 3,000 daltons to 100,000 daltons) are generally not readily absorbed through intact skin or intact gastrointestinal (GI) tract, respectively. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. These acrylate polymers/copolymers can be used as dispensers, fiber, resin, and beads, as long as the fiber, bead and resin sizes are well over 10 microns and are insoluble in water. Acrylate polymers/copolymers of high molecular weight with well over 10

micron particle size are generally not absorbed by inhalation.

3. The acrylate polymers and copolymers that are exempted are not cationic or are not anticipated to be converted (by degradation or decomposition) to a cationic state.

4. Acrylate and methacrylate are listed as high-concern reactive functional groups. Therefore, to meet the exemption criteria § 723.250 (e)(1)(ii)(C) the minimum permissible combined functional group equivalent weight is 5,000 daltons, when a number-average molecular weight (NAVG MW) of a polymer is greater than 1,000 and lower than 10,000 daltons. Additionally, in this range of molecular weight (greater than 1,000 and less than 10,000 daltons) the polymer must contain less than 10 percent oligomer content of molecular weight below 500 daltons and less than 25 percent oligomer content of molecular weight below 1,000 daltons.

5. The polymers with NAVG MW equal to or greater than 10,000 daltons (§ 723.250 (e)(2)), the polymer must contain less than 2 percent oligomer content of molecular weight below 500 daltons and must not exceed 5 percent oligomer content of molecular weight below 1,000 daltons. Water soluble polymers in this molecular weight range are excluded from exemption under § 723.250(d), with no restriction regarding the functional group.

6. For a polymer or polyester to meet the exemption criteria § 723.250 (e)(3), each feedstock, monomer or reactant in the chemical identity of the polymers at greater than 2 percent composition must be on the list. Excluded from this exemption would be biodegradable polyesters and highly water-absorbing polyester with NAVG MW greater than 10,000 daltons.

7. The acrylate polymers and copolymers must contain as an integral part of their composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, sulfur, or silicon (40 CFR § 723.250(d)(3)). A previous requirement in the 1984 rule stated that an eligible polymer contain at least 32 percent carbon. This requirement was deleted since cases reviewed to date contain less than 32 percent carbon, have either received low concern rating, or have been excluded for other reasons.

8. Certain other elements are permitted in the acrylate polymers and copolymers as an integral part of the polymers, except if present as impurities. The allowed elements (40 CFR § 723.250(d)(3)), in addition to the atomic elements carbon, hydrogen, nitrogen, oxygen, sulfur, silicon (C, H, N, O, S, Si) are: fluorine, chlorine, bromine, and iodine (F, Cl, Br, and I) when covalently bonded to carbon, and monoatomic counterions such as chlorine, bromide, and iodide (Cl-,Br-, I-), sodium, magnesium, aluminum, potassium, and calcium (Na+, Mg+2, Al+3, K+, and Ca+2). Less than 0.2 percent weight total (in any combination) of the atomic elements lithium, boron, phosphorus, titanium, manganese, iron, nickel, copper, zinc, tin, and zirconium (Li, B, P, Ti, Mn, Fe, Ni, Cu, Zn, Sn, and Zr) are permitted. No other elements are permitted except as impurities.

9. The acrylate polymers and copolymers are not biopolymers, they are synthetic equivalents of a biopolymer, or derivatives or modifications of a biopolymer that is substantially intact. These polymers do not contain reactive functional groups that are anticipated to be converted to a cationic state.

10. The acrylate polymers and copolymers are not designated or reasonably anticipated to be substantially degraded, decomposed, or depolymerized. Based upon the above information and review of its use, EPA has found that when used in accordance with good agricultural practice, these inert ingredients are useful and a tolerance is not necessary to protect public health. Therefore, EPA proposes that the exemptions from the requirement of tolerance be established for acrylate polymers/copolymers used as inert ingredient for pesticide formulations.

II. Filing of Objections

Any person adversely affected by this regulation may, within 30 days after publication of this document, file written objections and/or request a hearing with the Hearing Clerk and a copy submitted to the OPP docket for this rulemaking at the addresses given above.

III. Regulatory Assessment Requirement

A. Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866.

B. Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Dated: February 7, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. By adding new § 180.1162 to subpart D to read as follows:

§ 180.1162 Acrylate Polymers and Copolymers; exemption from the requirement of a tolerance.

(a) Acrylate polymers and copolymers are exempt from the requirement of a tolerance when used as inert ingredients in pesticidal formulations applied to growing, raw agricultural commodities. This tolerance exemption covers the acrylate polymers/copolymers that are intrinsically safe and already listed in TSCA inventory or will meet the polymer tolerance exemption from requirements of premanufacturing notification under 40 CFR 723.250. Polymers exempted can be used as dispensers, resins, fibers, and beads, as long as the fibers, beads and resins particle sizes are greater than 10 microns and insoluble in water. This exemption pertains to the acrylate polymers/copolymers used as inert ingredients for sprayable and dispenser pesticide formulations that are applied on food crops. Any acrylate polymers/copolymers used for encapsulating material must be cleared as an inert ingredient when used in pesticide formulation applied on food crops.

(b) For the purposes of this exemption, acrylate polymers/copolymers used as inert ingredients in an end-use formulation must meet the definition for a polymer as given in 40 CFR 723.250(b), are not automatically excluded by 40 723.250(d), and meet the tolerance exemption criteria in 40 CFR 723.250(e)(1), 40 CFR 723.250 (e)(2) or 40 CFR 723.250(e)(3). Therefore, acrylate polymers and copolymers that are already listed in the TSCA inventory or will meet the polymer tolerance exemption under 40 CFR 723.250 as amended on March 29, 1995 are covered by this exemption.

[FR Doc. 96–3858 Filed 2–20–96; 8:45]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 5F4476/R2203; FRL–5350–6]

RIN 2070–AB78

Hexythiazox; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes a tolerance for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound), in or on the raw agricultural commodity apples. Gowan Company requested this regulation to establish a maximum permissible level for residues of the acaricide pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective February 21, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [PP 5F4476/R2203], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 5F4476/R2203]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of May 3 1995 (60 FR 21815), which announced that Gowan Company, P.O. Box 5569, Yuma, AZ 85366-5569, had submitted a pesticide petition (PP 5F4476) to EPA requesting the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to establish a tolerance for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound), in or on the raw agricultural commodity apples at 0.05 parts per million (ppm). In a letter dated October 10, 1995, Gowan requested that the pesticide petition be amended by proposing a lower tolerance on apples at 0.02 ppm. No comments were received in response to the notice of filing.

The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data considered in support of this tolerance are discussed in detail in a related document published in the Federal Register of April 26, 1989 (54 FR 17947).

The Agency has classified hexythiazox as a class C (possible human) carcinogen based on a significantly increased incidence of hepatocellular carcinomas ($p=0.028$), and adenomas/carcinomas combined ($p=0.024$) in female mice at the highest dose tested (1,500 ppm) when compared to the controls as well as a significantly increased ($p<0.001$) incidence of preneo-plastic hepatic nodules in both males and females at the highest dose tested (1,500 ppm). The decision supporting a Category C classification (rather than a Category B) was based primarily on the fact that only one species was affected (mouse), mutagenicity assays did not support upgrading to a B classification, and structure-activity relationship of hexythiazox to other compounds supported a C classification. In classifying hexythiazox as a Category C carcinogen, the Agency concluded that a quantitative estimate of the carcinogenic potential for humans should be calculated because of the increased incidence of malignant liver tumors in the female mouse. Thus, a Q^{1*} of 3.9×10^{-2} $(mg/kg/day)^{-1}$ in human equivalents has been calculated.

A full review of the data indicates that although hexythiazox is a carcinogen in mice, the risks would be extremely small from the proposed use on apples. Estimated dietary carcinogenic risk to the general population based on the highly conservative assumption that all apples are treated with hexythiazox and would bear residues at the proposed tolerance level is estimated to be 2×10^{-6}. This is slightly higher than 1×10^{-6} a level which is generally considered of negligible risk concern by the Agency. The Agency believes that actual exposure and risk would be lower. The basis for this is that the risk estimate reflects a worst-case dietary exposure because it assumes that 100 percent of all apples consumed in the United States are treated with hexythiazox and that all quantities of the food consumed would bear residues levels as high as the proposed tolerance. In reality, the Agency knows that all apples would not be treated with this pesticide and expect that even apples receiving maximum treatment will have residues far below tolerance level. For example, in field trials conducted using application rates 10 times the label amount, residues in apples still did not exceed the tolerance level. Further, the maximum residue level in apple juice would be expected to be less than 50 percent of the residue level in whole fruit.

Based on an assessment of the cancer risks of the proposed use of hexythiazox, the Agency believes that the proposed use of hexythiazox on apples will pose an extremely small risk to humans.

A chronic dietary exposure/risk assessment has been performed for hexythiazox using a Reference Dose (RfD) of 0.025 mg/kg-bwt/day. The RfD was based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study and a safety factor of 100. The endpoint effect of concern was hypertrophy of the adrenal cortex in both sexes, decreased red blood cell counts, hemoglobin content and hematocrit in males. The

analysis was performed using tolerance level residues and 100% crop treated information. The exposure for established tolerances and the current action is estimated at 0.000051 mg/kg-bwt/day and utilizes 0.2% of the RfD for the U.S. population. For non-nursing infants less than 1 year old (the sub-group population with the highest exposure level), the exposure for established tolerances and the current action is estimated at 0.000600 mg/kg-bwt/day and utilizes 2.4% of the RfD. Generally speaking, the Agency has no concern if dietary exposure is less than the RfD for all published and proposed tolerances.

The nature and metabolism of the chemical in plants and animals for the use is adequately understood. Since the petitioner has included the label restriction ''Do not graze or feed livestock on cover crops growing in treated areas'' and hexythiazox animal feeding studies indicate that there is no reasonable expectation of finite residue transfer to meat, milk, poultry and eggs, no secondary residues in meat or milk are expected. Adequate analytical methodology (gas liquid chromatography with an electron capture detector) is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the *Pesticide Analytical Manual, Vol. II* (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5232.

The tolerances established by amending 40 CFR part 180 will be adequate to cover residues in or on apples. There are presently no actions pending against the continued registration of this chemical. Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 5F4476/R2203] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper version of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystall Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 8, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 continues to read as follows:

PART 180—[AMENDED]

1. The authority citation of part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. By amending § 180.448 in the table therein and alphabetically inserting an entry for apples, to read as follows:

§ 180.448 **Hexythiazox; tolerances for residues.**

* * * * *

Commodity	Parts per million
Apples	0.02
* * * * *	

[FR Doc. 96–3721 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 282

[FRL–5345–2]

Underground Storgae Tank Program; Approved State Program for Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 3007, 7003, 9005, and 9006 of RCRA. This rule codifies in part 282 the prior approval of Maine's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation shall be effective April 22, 1996, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the codification of Maine's underground storage tank program must be received by the close of business March 22, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of April 22, 1996.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5–3), Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Comments received by EPA may be inspected in the public docket, located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Burns, Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Phone: (617) 573–9663.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Maine. (57 FR 36, February 24, 1992). Approval was effective on March 18, 1992.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 3007, 7003, 9005, and 9006 of Subtitle I of RCRA, 42 U.S.C. 6927, 6973, 6991d and 6991e. Today's rulemaking codifies EPA's approval of the Maine underground storage tank program. This codification reflects the state program in effect at the time EPA granted Maine approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Maine program, and EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. Revisions to state underground storage tank programs are necessary when federal statutory or regulatory authority is modified. By codifying the approved Maine program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Maine, the status of federally approved requirements of the Maine program will be readily discernible. Only those provisions of the Maine underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Maine's underground storage tank program, EPA has added § 282.69 to title 40 of the CFR. Section 282.69 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.69 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Maine enforcement authorities will not be incorporated by reference. Forty CFR § 282.69 lists those approved Maine authorities that would fall into this category

The public also needs to be aware that some provisions of the Maine's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use;
- Registration requirements for tanks used for storing heating oil for consumptive use on the premises; and
- Permanent closure requirements for tanks containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program because they are ''broader in scope'' than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are ''broader in scope'' than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.69 of the codification simply lists for reference and clarity the Maine statutory and regulatory provisions which are ''broader in scope'' than the federal program and which are not, therefore, part of the approved program being codified today. ''Broader in scope'' provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 36, February 24, 1992) to approve the Maine underground storage

tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: September 21, 1995.

John P. DeVillars,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.69 to read as follows:

Subpart B—Approved State Programs

§ 282.69—Maine State-Administered Program.

(a) The State of Maine is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Maine Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Maine program on February 18, 1992, and the approval was effective on March 18, 1992.

(b) Maine has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 3007, 7003, 9005 and 9006 of RCRA, 42 U.S.C. 6927, 6973, 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Maine must revise its approved program to adopt new changes to the federal Subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Maine obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the Federal Register.

(d) Maine has final approval for the following elements submitted to EPA in Maine's program application for final approval and approved by EPA on February 18, 1992. Copies may be obtained from the Underground Storage Tank Program, Maine Department of Environmental Protection, AMHI Complex-Ray Building, Hospital Street, Augusta, ME 04333. The elements are listed below:

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Maine Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Maine Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Title 38 Maine Revised Statutes Annotated, Sections 561 through 570.

(B) The regulatory provisions include: Maine Regulations for Registration, Installation, Operation and Closure of Underground Oil Storage Facilities Chapter 691 Section 1 through 13.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Title 38 Maine Statutes Annotated, Section 565, insofar as it refers to registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(B) Maine Environmental Protection Regulations Chapter 691, Section 6 regulations of heating oil facilities for consumption on premises, Section 9 facilities for underground storage of heavy oils.

(2) *Statement of legal authority.* (i) ''Attorney General's Statement for Final Approval'', signed by the Attorney General of Maine on December 5, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Maine to EPA, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application in November 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in December 20, 1991, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region I and the Maine Department of Environmental Protection, signed by the EPA Regional Administrator on November, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order ''Maine'' and its listing.

Appendix A To Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Maine

The following is an informational listing of the state requirements incorporated by reference in part 282 of the Code of Federal Regulations:

(a) The statutory provisions include: Maine Revised Statutes Annotated, 1990, Tile 38.

Subchapter 11–B Underground Oil Storage Facilities and Groundwater Protection.

Section 561—Findings; Purpose
Section 562–A—Definitions
Section 563—Registration of underground oil storage tanks
Section 563–A—Prohibition of nonconforming underground oil storage facilities and tanks
Section 563–B—Regulatory powers of department
Section 564—Regulation of underground oil storage facilities
Section 566–A—Abandonment of underground oil storage facilities and tanks
Section 567—Certification of underground tank installers
Section 568—Cleanup and removal of prohibited discharges
Section 568–A—Fund coverage requirements
Section 568–B—Fund Insurance Review Board
Section 569–A—Ground water Oil Clean-up Fund
Section 570—Liability

(b) The regulatory provisions include State of Maine, Department of Environmental Protection, Regulation for Registration, Installation, Operation and Closure of Underground Storage Facilities Chapter 691, September 16, 1991:

Section 1. Legal Authority
Section 2. Preamble
Section 3. Definitions
Section 4. Registration of Underground Oil Storage Tanks
Section 5. Regulation of Motor Fuel, Marketing & Distribution Facilities
- A. Applicability
- B. Design and Installation Standards for New and Replacement Facilities
- C. Retrofitting Requirements for Existing Facilities
- D. Monitoring, Maintenance, & Operating Procedures for Existing, New & Replacement Facilities & Tanks
- E. Facility Closure and Abandonment

Section 7. Regulation of Facilities for the Underground Storage of Waste Oil
- A. Applicability
- B. Design and Installation Standards
- C. Operation, Maintenance, Testing, Requirements for Existing, New and Replacement Facilities
- D. Closure & Abandonment of Waste Oil Facilities

Section 8. Regulation of Field Constructed Underground Oil Storage Tanks
Section 10. Regulation of Pressurized Airport Hydrant Piping Systems
Section 11. Regulations for Closure of Underground Oil Storage Facilities
- A. Facility Closure Requirements
- B. Temporarily Out of Service Facilities and Tanks
- C. Abandonment by Removal
- D. Abandonment by Filling in Place
- E. Notification Requirements

Section 12. Discharge and Leak Investigation, Response and Corrective Action Requirements
Section 13. Severability
Appendix A: Cathodic Protection Monitoring
Appendix B: Hydrostatic Piping Line Tightness Tests
Appendix C: Requirements for Pneumatic Testing
Appendix D: Installation of Underground Tanks
Appendix E: Installation for Underground Piping
Appendix F: Specification for Ground Water Vertical Monitoring Wells
Appendix H: Monitoring and Obtaining Samples for Laboratory Analysis
Appendix J: Requirements for Abandonment by Removal
Appendix K: Requirements for Abandonment in Place

[FR Doc. 96–3587 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5421–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the Lewisburg Dump Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Lewisburg Dump site in Lewisburg, Tennessee, from the National Priorities List (NPL), which is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State have determined that all appropriate Fund-financed responses under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment. This deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Femi Akindele, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347–7791, extension 2042.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Lewisburg Dump Superfund Site, Lewisburg, Tennessee.

A Notice of Intent to Delete for this site was published on December 20, 1995, (60 FR 65616). The closing date for comments on the Notice of Intent to Delete was January 11, 1996. EPA received no comments.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 2 of appendix B to part 300 is amended by removing the site for Lewisburg Dump, Lewisburg, Tennessee.

Dated: January 31, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96–3581 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 24

Senior Biomedical Research Service

AGENCY: Public Health Service (PHS), DHHS.

ACTION: Interim final rule with request for comments.

SUMMARY: The Secretary of Health and Human Services (DHHS) is issuing

interim final regulations implementing section 228 of the Public Health Service Act, as amended by section 304 of Public Law 101–509 and section 2001 of Public Law 103–43, which establish in the Public Health Service a Senior Biomedical Research Service.

These regulations are being published as an interim final rule with request for comment. Although the Administrative Procedure Act does not apply to a matter relating to agency management or personnel [5 U.S.C. 553(a)(2)] and although the Act itself permits publication of a final rule without a notice and comment period for rules of agency organization or procedure [5 U.S.C. 553(b))], these regulations are considered a significant enough change in policy to benefit from public comment.

EFFECTIVE DATE: This interim rule is effective February 21, 1996. Comments should be received within thirty days from the date of publication.

ADDRESSES: Comments may be sent or delivered to Rosemary Taylor, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, Department of Health and Human Services, Hubert H. Humphrey Building, Room 522–A, 200 Independence Ave., S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Rosemary Taylor at (202) 690–7358, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, Department of Health and Human Services, Hubert H. Humphrey Building, Room 522–A, 200 Independence Ave., S.W., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: Section 304 of Public Law 101–509 amended the Public Health Service Act by adding a new section 228, which establishes the Senior Biomedical Research Service (SBRS) in the PHS. Section 2001 of Public Law 103–43 amended the Public Health Service Act by increasing the number of authorized positions to 500. Members of the SBRS are to be appointed by the Secretary without regard to the provisions of title 5, U.S. Code, regarding appointment, and are to be individuals outstanding in the field of biomedical research or clinical research evaluation. Appointments to the SBRS will be only to individuals actively engaged in either peer-reviewed original biomedical research of clinical research evaluation. These regulations establish the basic eligibility criteria, pay rates, performance appraisal system, optional retirement system, and procedure for removal from the SBRS. These regulations may be supplemented by HHS personnel instructions.

Executive Order 12866

I have examined the impacts of the interim final rule under Executive Order 12866. I believe that this interim final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the interim final rule is a significant regulatory action as defined by the Executive Order and, therefore, is subject to OMB review.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only a small number of federal employees who are members of the Senior Biomedical Research Service.

List of Subjects in 42 CFR Part 24

Government employees, Health professions, Reporting and recordkeeping requirements, wages.

Accordingly, the Department of Health and Human Services is amending 42 CFR by adding a new Part 24, reading as follows:

PART 24—SENIOR BIOMEDICAL RESEARCH SERVICE

Sec.
24.1 Establishment.
24.2 Allocation.
24.3 Policy Board.
24.4 Eligibility.
24.5 Peer review.
24.6 Pay and compensation.
24.7 Performance appraisal system.
24.8 Applicability of provisions of Title 5, U.S. Code.
24.9 Removal from the Service.
24.10 Reporting.

Authority: Section 228(g) of the Public Health Service Act; 5 U.S.C. 301.

§ 24.1 Establishment.

There is established in the Public Health Service (PHS) a Senior Biomedical Research Service (SBRS) consisting of members the maximum number of which is prescribed by law.

§ 24.2 Allocation.

(a) The Secretary, within the number authorized in the PHS Act, shall determine the number of SBRS slots to be allocated to each participating Operating Division.

(b) The SBRS Policy Board may advise the Secretary to make adjustments to the allocation at any time.

(c) The majority of the SBRS allocation is to be reserved for recruitment. The remaining SBRS allocation may be used for the retention of current employees.

(d) SBRS slots will be used judiciously, resulting in SBRS appointments only where other senior-level appointing authorities are not sufficient to recruit or retain scientific talent.

(e) The Secretary will ensure that SBRS slots are used in support of high priority programs authorized by Congress and which directly support the research goals and priorities of the Department.

§ 24.3 Policy Board.

The Secretary or his/her designee shall establish an SBRS Policy Board to serve in an advisory capacity, recommending SBRS allocations among the participating Operating Divisions, reviewing the operations of the SBRS and ensuring consistent application of regulations, policies, and procedural guidelines, and recommending changes to the Secretary as necessary. Membership, to the extent possible, will include SBRS eligibles nominated by their respective Operating Divisions, will be weighted in proportion to Operating Divisions' SBRS allocations, and will include representation from the Office of the Secretary. The Secretary or his/her designee will select the board membership and the Chair.

§ 24.4 Eligibility.

To be eligible for appointment to the Service an individual must have a doctoral-level degree in biomedicine or a related field and must meet the qualification standards prescribed by the U.S. Office of Personnel Management for appointment to a position at GS–15 of the General Schedule. In addition, the individual must be outstanding in the field of biomedical research or clinical research evaluation. Appointment to the Service will be made only to individuals actively engaged in either biomedical research or clinical research evaluation.

(a) Outstanding in the field of biomedical research means an individual who is actively engaged in peer-reviewed original biomedical research and whose work in this area is considered by his or her peers to be outstanding. In order to meet the eligibility criteria, an individual must have conducted original peer-reviewed biomedical research resulting in major accomplishments reflected by a steady and current record of highly cited publications in peer-reviewed journals of high stature. In addition, the individual should be the recipient of major prizes and awards (such as visiting professorships and named lectureships) in recognition of original contributions to research.

(b) Outstanding in the field of clinical research evaluation means that an individual is actively engaged in clinical research evaluation and is considered by his or her peers to be outstanding. In order to meet the eligibility criteria, an individual, by force of his or her own technical expertise, must be in a position to shape the course of drug or device evaluation or exert a similar influence on the PHS handling of other agents that may affect the public health. The individual would normally have dealt with complex, precedent-setting evaluation issues that involved significant scientific controversy, had far reaching implications for clinical research or resulted in a widespread economic effect in the health-care delivery system. In addition, the individual should have been involved in the development of scientific or regulatory guidelines for clinical research and been the recipient of invitations to speak at or to chair major national or international meetings and symposia.

§ 24.5 Peer review.

An individual may not be considered for appointment into the SBRS unless his/her qualifications have been reviewed by a PHS peer review committee and the committee has recommended appointment to the Service.

§ 24.6 Pay and compensation.

The SBRS is an ungraded system, with a single, flexible pay range to include all members.

(a) Pay of the members of the Service shall be determined by the Secretary or his/her designee.

(b) The pay of a member of the Service shall be not less than the minimum rate payable for GS–15 of the General Schedule and shall not exceed:

(1) The rate payable for level I of the Executive Schedule unless a higher rate of pay is expressly approved on an individual basis by the President, pursuant to 5 U.S.C. 5377(d)(2), or

(2) The rate payable for level II of the Executive Schedule unless a higher rate of pay is expressly approved on an individual basis by the Secretary.

(c) While the full pay range will be used, individual pay at the higher end of the range will be used only as needed to recognize individual scientific value and as necessary to recruit or retain an exceptionally well-qualified scientist.

(d) The following factors will be used in establishing appropriate pay rates for individual members:

(1) Impact of the individual on the scientific field;

(2) Recognition of the individual by the scientific community;

(3) Originality of the individual's ideas/work products;

(4) Specific ''clinical'' or highly technical skills of the individual which are of benefit to the agency and which are in addition to requirements of the basic scientific assignment;

(5) The individual's earnings and monetary benefits;

(6) Salary surveys of similar skills in pertinent labor markets; and

(7) Other relevant factors.

(e) Annual adjustments to pay rates may be made effective on the first day of the first pay period on or after January 1 of each calendar year. The rate of such adjustments will be at the discretion of the Secretary or his/her designee, except that the minimum rate payable in the SBRS will be increased to the amount of the minimum rate of the GS–15 of the General Schedule.

(f) Other pay adjustments will be made on an individual basis by the Secretary or his/her designee.

(g) Except as provided in paragraph (h) of this section, new appointees to the Service, who are not covered by the Civil Service Retirement System, will be covered by the Federal Employees Retirement System.

(h) Upon the request of a member who performed service in the employ of an institution of higher education immediately prior to his appointment as a member of the Service, and retains the right to make contributions to the retirement system of such institution, the Department of Health and Human Services may contribute an amount not to exceed ten percent per annum of the member's basic pay to such institution's retirement system on behalf of such member. A member who participates in this program shall not be covered by any retirement system established for employees of the United States under title 5, United States Code.

§ 24.7 Performance appraisal system.

The members of the Service shall be subject to a performance appraisal system which shall be designed to encourage excellence in performance and shall provide for a periodic and systematic appraisal of the performance of the members.

§ 24.8 Applicability of provisions of Title 5, U.S. Code.

(a) Appointments to the Service shall be made without regard to the provisions of title 5, U.S. Code regarding appointments.

(b) Members of the Service shall not be covered by the following provisions of title 5, U.S. Code:

(1) Subchapter I of Chapter 35 (relating to retention preference in the event of reduction in force);

(2) Chapter 43, Performance Appraisal (and performance-based actions);

(3) Chapter 51 (relating to classification);

(4) Subchapter III of Chapter 53, The General Schedule; and

(5) Chapter 75, Adverse Actions.

(c) Other provisions of Title 5 will be applied as administratively determined by the Secretary or his/her designee.

§ 24.9 Removal from the Service.

(a) A member of the Service may be subject to disciplinary action, including removal from the Service, for substandard performance of duty as a member of the service, for misconduct, for reasons of national security or for other reasons as determined by the Secretary.

(b) A member for whom disciplinary action is proposed is entitled to:

(1) Written notice of the proposed action and the basis therefor;

(2) A reasonable opportunity to answer the notice of proposed action both orally and in writing;

(3) The right to be represented by an attorney or other representative in making such answer; and

(4) A written decision on the proposal.

(c) The decision may be made by an official with delegated authority to take such action, but in no case may the official be at a level below the head of the Operating Division where the member is assigned.

(d) A member who is separated from the Service involuntarily and without cause and who, immediately prior to his appointment to the Service, was a career appointee in the civil service or the Senior Executive Service, may be appointed to a position in the competitive civil service at grade GS–15 of the General Schedule. Such an appointment may be made by the Secretary or his/her designee without regard to the provisions of title 5, U.S. Code regarding appointments in the civil service.

(e) A member who is separated from the Service involuntarily and without cause and who, immediately prior to appointment to the Service, was not a career appointee in the civil service or the Senior Executive Service may be appointed to a position in the excepted civil service at grade GS–15 of the General Schedule for a period not to exceed two years.

(f) There shall be no right to further review of the final decision on a disciplinary action. At his/her discretion, the Secretary may review an

action taken under this section and may reduce, suspend, or overrule the action taken.

(g) A member of the Service may be removed from the Service for such other reasons as may be prescribed by the Secretary.

§ 24.10 Reporting.

For each quarter of the first year of implementation and annually thereafter, participating Operating Divisions shall maintain reports on the operation of the SBRS. At a minimum, these reports should include the number of appointees, the source of those appointees, their earnings immediately prior to appointment, and their SBRS pay at appointment.

Dated: October 10, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 96–3739 Filed 2–20–96; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
North Carolina: Dare (FEMA Docket No. 7141).	Unincorporated areas .	June 6, 1995, June 13, 1995, *The Coastland Times*.	Mr. Robert V. Owens, Chairman of the Dare County Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	May 30, 1995	375348 D

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3847 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Tolland (FEMA Docket No. 7150).	Town of Somers	June 23, 1995, June 30, 1995, *Journal Enquirer*.	Mr. Robert Percoski First Selectman of the Town of Somers, Town Hall, P.O. Box 308, Somers, Connecticut 06071.	June 16, 1995	090112
Florida: Orange (FEMA Docket No. 7141).	Unincorporated Areas .	June 30, 1995, July 6, 1995, *The Orlando Sentinel*.	Mr. Ajit Lalchandani, P.E., Acting Director, 4200 South John Young Parkway, Orlando, Florida 32839–9205.	May 22, 1995	120179
Minnesota: Hennepin (FEMA Docket No. 7148).	City of Hopkins	June 28, 1995, July 5, 1995, *Hopkins Sun Sailor*.	Mr. Steve Mielke, Manager of the City of Hopkins, 1010 1st Street South, Hopkins, Minnesota 55343.	Dec. 19, 1995	270166
New Hampshire: Grafton (FEMA Docket No. 7148).	Town of Littleton	June 14, 1995, June 21, 1995, *The Courier*.	Mr. Donald A. Craigie, Chairman of the Board of Selectmen, 1 Union Street, Littleton, New Hampshire 03561.	June 9, 1995	330064
Ohio: Athens (FEMA Docket No. 7150).	City of Athens	Aug. 9, 1995, Aug. 16, 1995, *The Athens Messenger*.	The Honorable Sara Hendricker, Mayor of the City of Athens, 8 East Washington Street, Athens, Ohio 45701.	Feb. 2, 1996	390016
Tennessee: Sevier (FEMA Docket No. 7141).	City of Sevierville	May 25, 1995, June 1, 1995, *The Mountain Press*.	The Honorable Bryan Atchley, Mayor of the City of Sevierville, P.O. Box 5500, Sevierville, Tennessee 37864–5500.	May 18, 1995	475444

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3849 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7167]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They

should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: Santa Barbara.	City of Santa Barbara .	Nov. 2, 1995, Nov. 9, 1995, *Santa Barbara News Press*.	The Honorable Harriet Miller, Mayor, City of Santa Barbara, City Hall, P.O. Box 1990, Santa Barbara, California 93102–1990.	Oct. 11, 1995	060335
Colorado:					
Boulder	City of Boulder	Nov. 23, 1995, Nov. 30, 1995, *Daily Camera*.	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	Nov. 1, 1995	080024
Boulder	Unincorporated Areas .	Nov. 23, 1995, Nov. 30, 1995, *Daily Camera*.	The Honorable Ronald K. Stewart, Chairperson, Boulder County Board of Supervisors, P.O. Box 471, Boulder, Colorado 80306.	Nov. 1, 1995	080023
El Paso	City of Colorado Springs.	Nov. 21, 1995, Nov. 28, 1995, *Gazette Telegraph*.	The Honorable Robert M. Isaac, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901.	Oct. 25, 1995	080060
El Paso	Unincorporated Areas .	Nov. 21, 1995, Nov. 28, 1995, *Gazette Telegraph*.	The Honorable Loren Whittemore, Chairperson, El Paso County Board of Commissioners, 27 East Vermijo, Third Floor, Colorado Springs, Colorado 80903–2225.	Oct. 25, 1995	080059
Idaho: Bannock	City of Pocatello	Nov. 23, 1995, Nov. 30, 1995, *Idaho State Journal*.	The Honorable Peter Angstadt, Mayor, City of Pocatello, P.O. Box 4169, Pocatello, Idaho 83205.	Oct. 12, 1995	160012

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Missouri: Greene	Unincorporated Areas	Nov. 3, 1995, Nov. 10, 1995, *News-Leader*.	The Honorable David L. Coonrod, Presiding Commissioner, Greene County Commission, 940 Boonville Avenue, Springfield, Missouri 65802.	Oct. 18, 1995	290782
Oklahoma:					
Cleveland	City of Norman	Oct. 24, 1995, Oct. 31, 1995, *Norman Transcript*.	The Honorable William Nations, Mayor, City of Norman, 201 West Gray, Norman, Oklahoma 73070.	Oct. 18, 1995	400046
Oklahoma	City of Oklahoma City	Nov. 22, 1995, Nov. 29, 1995, *Journal Record*.	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	Nov. 2, 1995	405378
Oklahoma	City of Oklahoma City	Nov. 23, 1995, Nov. 30, 1995, *Journal Record*.	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	Oct. 19, 1995	405378
Texas:					
Tarrant	City of Bedford	Nov. 2, 1995, Nov. 9, 1995, *Fort Worth Star Telegram*.	The Honorable Rick D. Hurt, Mayor, City of Bedford, P.O. Box 157, Bedford, Texas 76095–0157.	Oct. 13, 1995	480585
Dallas	City of Dallas	Nov. 23, 1995, Nov. 30, 1995, *Dallas Morning News*.	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Room 5E North, Dallas, Texas 75201.	Nov. 6, 1995	480171
Dallas	Unincorporated Areas	Nov. 23, 1995, Nov. 30, 1995, *Daily Commercial Record*.	The Honorable Lee F. Jackson, Dallas County Judge, 411 Elm Street, Dallas, Texas 75202.	Nov. 6, 1995	480165
El Paso	City of El Paso	Nov. 7, 1995, Nov. 14, 1995, *El Paso Times*.	The Honorable William S. Tilney, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901.	Oct. 18, 1995	480214
Williamson	City of Georgetown	Nov. 22, 1995, Nov. 29, 1995, *Williamson County Sun*.	The Honorable Leo Wood, Mayor, City of Georgetown, P.O. Box 409, Georgetown, Texas 78627.	Nov. 8, 1995	480668
Dallas, Tarrant, and Ellis.	City of Grand Prairie	Nov. 23, 1995, Nov. 30, 1995, *The Mid-Cities News*.	The Honorable Charles England, Mayor, City of Grand Prairie, 317 College Street, Grand Prairie, Texas 75053.	Nov. 6, 1995	485472

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tarrant	Town of Pantego	Nov. 22, 1995, Nov. 29, 1995, *Fort Worth Commercial Reporter.*	The Honorable Susan Abercrombie, Mayor, Town of Pantego, 1614 South Bowen Road, Pantego, Texas 76013.	Oct. 31, 1995	481116
Williamson	Unincorporated Areas .	Nov. 22, 1995, Nov. 29, 1995, *Williamson County Sun.*	The Honorable John Doerfler, Williamson County Judge, County Courthouse, 710 Main Street, Georgetown, Texas 78626.	Nov. 8, 1995	481079

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3851 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7169]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Georgia: Cobb	City of Marietta	Nov. 3, 1995, Nov. 10, 1995, *Marietta Daily Journal*.	The Honorable Ansley Meaders, Mayor of the City of Marietta, P.O. Box 609, Marietta, Georgia 30061.	Oct. 23, 1995	130226 F
Indiana: Hamilton	City of Carmel	Nov. 8, 1995, Nov. 15, 1995, *Carmel News Tribune*.	The Honorable Ted Johnson, Mayor of the City of Carmel, One Civic Square, Carmel, Indiana 46032.	Oct. 31, 1995	180081 C
North Carolina: Henderson.	City of Hendersonville	Nov. 3, 1995, Nov. 10, 1995, *The Times News*.	The Honorable Fred Neihoff, Mayor of the City of Hendersonville, P.O. Box 1670, Hendersonville, North Carolina 28793.	May 6, 1996	370128 B
Ohio: Fairfield and Franklin Counties.	City of Columbus	Aug. 30, 1995, Sept. 6, 1995, *The Columbus Dispatch*.	The Honorable Gregory Lashutka, Mayor of the City of Columbus, Columbus City Hall, 90 West Broad Street, Columbus, Ohio 43215.	Aug. 23, 1995	390170 G
Pennsylvania: Clinton	Borough of Flemington	Nov. 21, 1995, Nov. 28, 1995, *The Lock Haven Express*.	Mr. Gerry Yanneralla, President of the Flemington Borough Council, 126 High Street, Flemington, Pennsylvania 17745.	Nov. 13, 1995	420326 B
Virginia: Roanoke	Unincorporated areas	Nov. 16, 1995, Nov. 23, 1995, *Roanoke Times & World News*.	Mr. Elmer Hodge, Roanoke County Administrator, P.O. Box 29800, Roanoke, Virginia 24018.	Nov. 3, 1995	510190 D
Wisconsin: Juneau	Wonewoc (Village)	June 8, 1995, June 15, 1995, *The Wonewoc Reporter*.	Mr. John P. Cler, Village of Wonewoc President, P.O. Box 37, Wonewoc, Wisconsin 53968–0037.	May 25, 1995	550208 C

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3875 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7165]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed

conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Fairfield ..	City of Stamford	Oct. 13, 1995, Oct. 20, 1995, *The Advocate*.	The Honorable Stanley Esposito, Mayor of the City of Stamford, Stamford Government Center, 888 Washington Boulevard, Stanford, Connecticut 06904–2152.	Oct. 2, 1995	090015 C
Illinois: Will	Village of New Lenox ..	Oct. 11, 1995, Oct. 18, 1995, *Herald-News*.	Mr. John Nowakowski, President of the Village of New Lenox, 701 West Haven Avenue, New Lenox, Illinois 60451–2137.	Apr. 3, 1996	170706 E.
Indiana: Johnson	Unincorporated Areas .	Oct. 18, 1995, Oct. 25, 1995, *Daily Journal*.	Mr. Joseph Dettart, Chairman of the Johnson County Board of Commissioners, 86 West Court Street, Courthouse Annex, Franklin, Indiana 46131.	Jan. 23, 1996	180111 C
New Jersey: Bergen ...	Borough of Rockleigh .	Oct. 18, 1995, Oct. 25, 1995, *The Record*.	The Honorable Roberta Adams, Mayor of the Borough of Rockleigh, 26 Rockleigh Road, Rockleigh, New Jersey 07647.	Oct. 13, 1995	340071 F
Wisconsin: Juneau	Unincorporated Areas .	June 1, 1995, June 8, 1995, *Juneau County Star Times*.	Mr. James Barrett, President of the Juneau County Board, 220 State Street, Juneau, Wisconsin 53948.	May 25, 1995	550580 C

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3874 Filed 2–21–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATE: The effective dates for these modified base flood elevations are indicated in the table below and revise the Flood Insurance Rate Map(s) in effect for the listed communities prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director for Mitigation has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Louisiana: St. Mary Parish (FEMA Docket No. 7152).	City of Morgan City	July 19, 1995, July 26, 1995, *Daily Review.*	The Honorable Timothy I. Matte, Mayor, City of Morgan City, P.O. Box 1218, Morgan City, Louisiana 70381.	June 28, 1995	220196

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Coryell (FEMA Docket No. 7156).	City of Copperas Cove	Aug. 18, 1995, Aug. 23, 1995, *Killeen Daily Herald*.	The Honorable J. A. Darossett, Mayor, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, Texas 76522.	July 18, 1995	480155
Texas: El Paso (FEMA Docket No. 7156).	City of El Paso	Aug. 23, 1995, Aug. 30, 1995, *El Paso Times*.	The Honorable Larry Francis, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	July 24, 1995	480214
Texas: Tarrant (FEMA Docket No. 7156).	City of Keller	Aug. 22, 1995, Aug. 29, 1995, *Keller Citizen*.	The Honorable Ron Lee, Mayor, City of Keller, P.O. Box 770, Keller, Texas 76244.	July 25, 1995	480602

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3845 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW MEXICO	
Carlsbad (city), Eddy County (FEMA Docket No. 7122)	
Dark Canyon Draw:	
Approximately 100 feet downstream of the Atchison, Topeka, and Santa Fe Railroad	*3,103
Just upstream of the Southern Canal Siphon	*3,132
Approximately 50 feet downstream of Dark Canyon Road	*3,191
At the western corporate limit, adjacent to the Carlsbad Army Air Field	*3,265
Hackberry Draw:	
Approximately 500 feet north of the intersection of Curry Street and the corporate limits	*3,138
At the intersection of Fifth Street and Ross	*3,140
Approximately 100 feet upstream of the intersection of Eighth Street and Washington Street	*3,144
Approximately 500 feet upstream of Lea Street and approximately 2,800 feet west and 2,200 feet south of the intersection of Texas and Eleventh Street	*3,161
At the intersection of Mesquite Street and Mermod Street	#2
Pecos River:	
Just upstream of Lower Tansill Dam	*3,103
At North Canal Street	*3,114
At the intersection of George and Riverside Drive	*3,120
Approximately 200 feet downstream of the Southern Canal Crossing	*3,123
At the intersection of Bonbright Street and Main Street	#1
At the intersection of Stevens Street and Main Street	#2
Maps are available for inspection at City Hall, City of Carlsbad, 101 South Halagueno, Carlsbad, New Mexico.	
Eddy County (unincorporated areas) (FEMA Docket No. 7122)	
Dark Canyon Draw:	
Approximately 100 feet downstream of the Southern Pacific Railroad	*3,103
At the Southern Canal Siphon	*3,132
Approximately 5.1 miles upstream of the Southern Canal Siphon	*3,269
Hackberry Draw:	
At confluence with Dark Canyon Draw	*3,132
At Southern Canal	*3,140
At Lea Street	*3,158
Approximately 100 feet downstream of Marquess Street	*3,184
Just downstream of the Hackberry Draw Dam	*3,227
Approximately 500 feet east and 500 feet south of the intersection of Curry Street and Quay Street	#2
Pecos River:	
Approximately 1,000 feet south of the Atchison, Topeka, and Santa Fe Railroad	*3,112
Maps are available for inspection at Eddy County's Courthouse, 101 North Canal Street, Carlsbad, New Mexico.	
SOUTH DAKOTA	
Pennington County (unincorporated areas) (FEMA Docket No. 7134)	
Rapid Creek:	
Approximately 4,500 feet upstream of Jolly Lane (County Road 274)	*3,101
Approximately 1,250 feet downstream of Valley Drive	*3,114
Approximately 2,350 feet upstream of Valley Drive	*3,125
Approximately 4,300 feet upstream of Valley Drive	*3,129
Approximately 5,500 feet downstream of East St. Patrick Street	*3,132
Maps are available for inspection at Pennington County Planning Division, 300 Sixth Street, Rapid City, South Dakota.	
WASHINGTON	
King County (unincorporated areas) (FEMA Docket No. 7146)	
Raging River:	
At confluence with the Snoqualmie River	*96
Just upstream of Carmichael Road	*204
Just upstream of 68th Street	*259
Just upstream of South 86th Street	*394
At Interstate Highway 90	*426
Approximately 1,800 feet upstream of Interstate Highway 90	*450
Approximately 3,050 feet upstream of Interstate Highway 90	*470
At confluence with Lake Creek	*542
At confluence with Deep Creek	*634
Approximately 0.3 mile upstream of the second Upper Preston Road Bridge	*673
Maps are available for inspection at the Building and Land Development Division, 3600 136th Place, Bellevue, Washington.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3846 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
FLORIDA	
Pinellas County (unincorporated areas) (FEMA Docket No. 7136)	
Alligator Creek Channel A:	
Approximately 800 feet downstream of McMullen Booth Road	*10
Approximately 625 feet downstream of Sunset Point Road	*54
Alligator Creek Channel B:	
Approximately 1,250 feet upstream of CSX Transportation	*24
At 4th Avenue south	*89
Alligator Creek Channel C:	
At confluence with Channel A	*38
Approximately 1,400 feet upstream of Sunset Point Road	*66
Alligator Creek Channel E:	
Approximately 250 feet downstream of CSX Transportation	*12
At downstream side of McMullen Booth Road	*22
Alligator Creek Channel H:	
At confluence with Channel A	*26
Approximately 600 feet upstream of Sharkey Road	*35
Maps available for inspection at the County Technical Services Building, First Floor, 440 Court Street, Clearwater, Florida.	
ILLINOIS	
Kane County (unincorporated areas) (FEMA Docket No. 7149)	
Blackberry Creek:	
At State Route 30	*661
At downstream side of State Route 38	*846
Blackberry Creek Tributary A:	
Approximately 2,450 feet downstream of Indian Trail Road	*674
At East-West Tollway	*679
Blackberry Creek Tributary B:	
At confluence with Blackberry Creek	*679
Approximately 0.6 mile upstream of Seavey Road	*698
Blackberry Creek Tributary C:	
At confluence with Blackberry Creek	*707
Approximately 1.7 miles upstream of Seavey Road	*723
Blackberry Creek Tributary D:	
At confluence with Blackberry Creek	*740
At Keslinger Road	*808
Blackberry Creek Tributary E:	
At Hankes Road	*680
Approximately 4,400 feet upstream of Winthrop Drive	*688
Blackberry Creek Tributary F:	
At confluence with Blackberry Creek Tributary B	*698
Approximately 210 feet upstream of Main Street	*735
Blackberry Creek Tributary G:	
Approximately 150 feet downstream of State Route 30	*657
Approximately 1,650 feet downstream of Jericho Road	*666
Blackberry Creek Tributary H:	
At confluence with Blackberry Creek	*666
Approximately 2,400 feet upstream of Burlington Northern Railway	*670
Bowes Creek:	
At the confluence with Stoney Creek	*793
Approximately 200 feet upstream of Dittman Road	*918
Bowes Creek Tributary:	
At the confluence with Bowes Creek	*909
Approximately 200 feet upstream of Dittman Road	*914
Ferson Creek:	
At Bolcum Road	*753
Approximately 75 feet upstream of State Route 64 (North Avenue)	*873
Fitchie Creek:	
At the confluence with Otter Creek	*782
Approximately 200 feet upstream of Russell Road	*878
Hampshire Creek:	
Approximately 1,225 feet downstream of confluence of Hampshire Creek Tributary	*869
Approximately 1,225 feet upstream of 500 Line Railroad	*966
Hampshire Creek Tributary:	
Approximately 345 feet downstream of Field Bridge	*873
Approximately 100 feet upstream of Field Bridge	*873
Hampshire Creek Tributary 1:	
At the confluence with Hampshire Creek	*898
Approximately 725 feet upstream of Keyes Drive	*904
Hampshire Creek Tributary 2:	
Approximately 100 feet upstream of the confluence with Hampshire Creek	*907
Approximately 70 feet upstream of Prairie Farm Road	*980
Hampshire Creek Tributary 3:	
At the confluence with Hampshire Creek Tributary No. 2	*963
Approximately 1,280 feet upstream of confluence with Hampshire Creek Tributary No. 2	*996
Hampshire Creek Tributary 4:	
At the confluence with Hampshire Creek	*965
Approximately 640 feet upstream of confluence with Hampshire Creek	*967
Mill Creek:	
Approximately 0.5 mile downstream of Kaneville Road	*704

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
Approximately 250 feet upstream of State Route 64 (Wasco Road)	*823
Mill Creek Tributary No. 2:	
At the confluence with Mill Creek Diversion Channel	*792
Approximately 0.4 mile upstream of confluence with Mill Creek Diversion Channel	*793
Mill Creek Diversion Channel:	
At the confluence with Mill Creek	*784
Approximately 0.9 mile upstream of confluence with Mill Creek	*796
Otter Creek:	
At the confluence with Ferson Creek	*756
Just downstream of Randall Road	*797
Otter Creek Tributary:	
At the confluence with Otter Creek	*760
Approximately 1.1 miles upstream of Falcons Trail	*840
Stoney Creek:	
At the confluence with Otter Creek	*773
Approximately 1.0 mile upstream of Crawford Road	*873
Maps available for inspection at the Government Center, 719 Batavia Avenue, Geneva, Illinois.	
INDIANA	
La Porte (city), La Porte County (FEMA Docket No. 7149)	
Pine Lake:	
Entire shoreline within community	*802
Stone Lake:	
Entire shoreline within community	*802
Lily Lake:	
Entire shoreline within community	*802
Clear Lake:	
Entire shoreline within community	*802
Maps available for inspection at the City Engineer's Office, La Porte City Hall, 801 Michigan Avenue, La Porte, Indiana.	
La Porte County (unincorporated areas) (FEMA Docket No. 7149)	
Pine Lake:	
Entire shoreline within county	*802
Maps available for inspection at the La Porte County Complex, 5th Floor, 822 East Lincoln Way, La Porte, Indiana.	
MAINE	
Arundel (town), York County (FEMA Docket No. 7124)	
Kennebunk River:	
Approximately 200 feet downstream of confluence of Goff Mill Brook	*9
Approximately 0.5 mile upstream of U.S. Route 1	*58
Maps available for inspection at the Town Hall, 468 Limerick Road, Arundel, Maine.	
Howland (town), Penobscot County (FEMA Docket No. 7124)	
Piscataquis River:	
Upstream side of Howland Dam	*157
At the confluence of Maxy Brook	*172
Maps available for inspection at the Town Hall, Main Street, Howland, Maine.	
Milo (town), Piscataquis County (FEMA Docket No. 7124)	
Piscataquis River:	
Approximately 0.7 mile downstream of confluence of Stinking Brook (downstream corporate limits)	*283
At confluence of Meadow Brook (upstream corporate limits)	*294
Pleasant River:	
At downstream corporate limits	*283
At upstream corporate limits	*330
Sebec River:	
At confluence with Piscataquis River	*286
Approximately 700 feet upstream of upstream corporate limits	*293
Meadow Brook:	
At confluence with Piscataquis River	*294
Approximately 50 feet upstream of River Road	*294
Maps available for inspection at the Town Hall, Pleasant Street, Milo, Maine.	
Poland (town), Androscoggin County (FEMA Docket No. 7124)	
Little Androscoggin River:	
Approximately 0.3 mile downstream of the confluence of Davis Brook	*225
Approximately 2.7 miles upstream of State Route 12 and 11	*246
Tripp Pond:	
Entire shoreline within community	*309
Thompson Lake:	
Entire shoreline within community	*327
Winter Brook:	
Approximately 1.7 miles downstream of Winter Brook Road	*309
Approximately 0.78 mile upstream from Winter Brook Road	*309
Davis Brook:	
At confluence with Little Androscoggin River	*225
Approximately 50 feet upstream of Gravel Road	*226
Worthley Brook:	
At confluence with Little Androscoggin River	*232
Approximately 0.48 mile upstream of confluence with Little Androscoggin River	*235
Maps available for inspection at the Municipal Office Building, Route 26, Poland, Maine.	
Starks (town), Somerset County (FEMA Docket No. 7149)	
Kennebec River:	
At confluence of Sandy River	*193
Approximately 1.7 miles upstream of the confluence of Sandy River (upstream corporate limits)	*201
Sandy River:	
At confluence with Kennebec River	*193
Approximately 2.5 miles upstream of Sandy River Dam	*202
Maps available for inspection at the Starks Town Hall, 950 Locke Hill Road, Starks, Maine.	
NEW HAMPSHIRE	
Bridgewater (town), Grafton County (FEMA Docket No. 7124)	
Pemigewassett River:	
Approximately 1.7 miles downstream of Woodman and Fog Brooks	*467
Approximately 0.6 mile upstream of U.S. Route 3	*481

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
F4700	
NORTH CAROLINA	
Black Mountain (town), Buncombe County (FEMA Docket No. 7149)	
Flat Creek:	
At confluence with Swannanoa River	*2358
At downstream side of Cotton Avenue	*2403
Swannanoa River:	
Approximately 200 feet upstream of confluence with North Fork Swannanoa River	*2233
Approximately 1,003 feet downstream of Old Toll Circle	*2398
Maps available for inspection at the Building Inspector's Office, 106 Montreat Road, Black Mountain, North Carolina.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3848 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act.

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
DELAWARE	
Arden (village), New Castle County (FEMA Docket No. 7138)	
South Branch Naaman Creek:	
Approximately 2,000 feet upstream of CSX Transportation	*188
Approximately 1,100 feet upstream of Marsh Road	*270
Maps available for inspection at the Village Secretary's Office, 2005 Harvey Road, Arden, Delaware.	
Ardentown (village), New Castle County (FEMA Docket No. 7138)	
South Branch Naaman Creek:	
Approximately 100 feet upstream of CONRAIL	*135
Approximately 2,000 feet upstream of CONRAIL	*189

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Ardentown Chairman's Office, 2308 Brae Road, Ardentown, Delaware.	
Newark (city), New Castle County (FEMA Docket No. 7138)	
West Branch Christina River:	
At Swim Club Access Road	*88
At State boundary	*108
Christina River:	
Approximately 570 feet upstream of Nottingham Road (Route 273)	*134
At downstream side of Wedgewood Road	*159
Persimmon Run:	
At its confluence with West Branch Christina River	*97
Approximately 100 feet upstream of Sandy Brae Road	*109
Silver Brook:	
At the confluence with Christina River	*70
Approximately 420 feet upstream of Park Lane	*78
Yorkshire Ditch:	
Approximately 260 feet upstream of confluence with the Christina River	*65
Approximately 710 feet upstream of Bellview Road	*70
Tributary to West Branch Christina River:	
At the confluence with West Branch Christina River	*108
Approximately 750 feet upstream of the confluence with West Branch Christina River	*109
Maps available for inspection at the City Hall, 220 Elkton Road, Newark, Delaware.	
New Castle County (unincorporated areas) (FEMA Docket No. 7138)	
Shellpot Creek:	
Approximately 1,275 feet downstream of Governor Printz Boulevard	*17
At Kennedy Road	*376
Naaman Creek:	
Approximately 350 feet upstream of confluence with Delaware River	*11
Approximately 0.35 mile upstream of State Route 92	*44
South Branch Naaman Creek:	
At confluence with Naaman Creek	*35
At upstream corporate limit	*359
Dragon Creek:	
Upstream side of 5th Street	*10
Approximately 1.1 miles upstream of 5th Street	*10
Persimmon Run:	
At its confluence with West Branch of Christina River	*97
Approximately 0.6 mile upstream of Sandy Brae Road	*115
Yorkshire Ditch:	
At the confluence with the Christina River	*64
Approximately 260 feet upstream of its confluence with the Christina River	*65
Tributary to West Branch Christina River:	
Approximately 750 feet upstream of the confluence with West Branch Christina River	*109
Approximately 1,260 feet upstream of the confluence with West Branch Christina River	*110
West Branch Christina River:	
Approximately 1,000 feet upstream of Swim Club Access Road	*91
Approximately 740 feet upstream of Elkton Road	*108
East Branch Christina River:	
At the confluence with the Christina River	*157
Approximately 0.9 mile upstream of Wedgewood Road	*229
Christina River:	
Approximately 570 feet upstream of Nottingham Road (State Route 273)	*134
Approximately 350 feet upstream of Wedgewood Road	*162
Maps available for inspection at the Engineering Building, 2701 Capital Trail, Newark, Delaware.	
Wilmington (city), New Castle County (FEMA Docket No. 7138)	
Shellpot Creek:	
Approximately 1,275 feet downstream of Governor Printz Boulevard	*17
Approximately 500 feet downstream of Governor Printz Boulevard	*17
Maps available for inspection at the Louis L. Redding City-County Building, City Clerk's Office, 800 French Street, Wilmington, Delaware.	
MAINE	
Norridgewock (town), Somerset County (FEMA Docket No. 7124)	
Kennebec River:	
Approximately 260 feet downstream of confluence of Ledge Brook	*174
Approximately .4 mile upstream of confluence of Sandy River	*193
Sandy River:	
At confluence with Kennebec River	*193
At upstream corporate limits	*202
Mill Stream:	
At confluence with Kennebec River	*177
Downstream side of West Branch Station Dam	*177
Maps available for inspection at the Town Office Vault, Perkins Street, Norridgewock, Maine.	
MICHIGAN	
Allen Park (city), Wayne County (FEMA Docket No. 7155)	
North Branch Ecorse Creek:	
Approximately 0.36 mile downstream of Allen Road	*590
Approximately 250 feet upstream of Euclid Avenue	*598
Maps available for inspection at the Allen Park City Hall, 16850 Southfield Road, Allen Park, Michigan.	
Dearborn (city), Wayne County (FEMA Docket No. 7083)	
River Rouge:	
Approximately 450 feet downstream of Evergreen Road (North Bound)	*587
Approximately 100 feet upstream of Ford Road (West Bound)	*597
Lower River Rouge:	
At the confluence with River Rouge	*589
At the Gulley Road	*603
North Branch Ecorse Creek:	
Approximately 520 feet downstream of Jackson Street	*598
Approximately 1,400 feet upstream of Pardee Road	*612
Maps available for inspection at the Dearborn City Hall West, Office of City Engineer, 6045 Fenton Street, Dearborn, Michigan.	
Dearborn Heights (city), Wayne County (FEMA Docket No. 7155)	
North Branch Ecorse Creek:	
At Southfield Freeway	*598
Approximately 600 feet upstream of Madison Street	*612

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Dearborn Heights City Hall, 6045 Fenton Street, Dearborn Heights, Michigan.	
Taylor (city), Wayne County (FEMA Docket No. 7155)	
North Branch Ecorse Creek:	
At Pelham Road	*602
Approximately 200 feet downstream of Pardee Road	*609
Maps available for inspection at the Taylor City Hall, 23555 Goddard Road, Taylor, Michigan.	
MINNESOTA	
North Branch (city), Chisago County (FEMA Docket No. 7164)	
North Branch Sunrise River:	
Approximately 1,575 feet upstream of State Route 95	*870
Approximately 0.9 mile upstream of 8th Avenue	*877
Maps available for inspection at the North Branch Planning Office, 1356 Main Street, North Branch, Minnesota.	
NEW YORK	
Clarence (town), Erie County (FEMA Docket No. 7048)	
Ransom Creek:	
Downstream corporate limits at Transit Road	*585
Downstream of Conner Road	*603
Tonawanda Creek:	
Downstream corporate limits at State Route 78	*584
Upstream corporate limits	*594
Black Creek:	
Downstream corporate limits (State Route 78)	*585
Approximately 1.7 miles upstream of Salt Road	*591
Gott Creek:	
At downstream corporate limits at Transit Road	*592
Approximately 100 feet upstream of Roll Road	*608
Maps available for inspection at the Clarence Town Building Department, 6185 Goodrich Road, Clarence Center, New York.	
NORTH CAROLINA	
Asheville (city), Buncombe County (FEMA Docket No. 7149)	
Bull Creek:	
At confluence with Swannanoa River	*2108
At Bull Creek Road	*2289
Beaverdam Creek:	
Approximately 500 feet downstream of Elkwood Avenue	*2056
At Governors Drive	*2259
Sweeten Creek:	
At confluence with Swannanoa River	*1998
Approximately 900 feet upstream of Rock Hill Road	*2192
Tributary No. 3 to Sweeten Creek:	
At confluence with Sweeten Creek	*2018
At Taft Street	*2136
Ross Creek:	
At confluence with Swannanoa River	*2002
At Howland Road	*2345
Haw Creek:	
Approximately 0.1 mile upstream of confluence with Swannanoa River	*2008
At Mann Drive	*2256
Smith Mill Creek:	
Approximately 685 feet upstream of Southern Railway	*1981
Approximately 0.2 mile downstream of Johnston School Road	*2162
Swannanoa River:	
Approximately 1,425 feet downstream of U.S. 25 Viaduct	*1992
At U.S. Highway 70	*2060
Tributary No. 1 to Sweeten Creek:	
At confluence with Sweeten Creek	*2082
Approximately 105 feet upstream of the confluence with Sweeten Creek	*2082
Hominy Creek:	
At 0.29 mile upstream of Sand Hill Road	*2056
Approximately 0.75 mile upstream of Sand Hill Road	*2058
Moore Creek:	
Approximately 53 feet upstream of State Route 1241	*2061
Approximately 550 feet upstream of Interstate 40	*2129
Maps available for inspection at the Planning Department, 70 Court Plaza, Asheville, North Carolina.	
Buncombe County (unincorporated areas) (FEMA Docket No. 7149)	
Tributary to Beaverdam Creek:	
At Hillcrest Road	*2098
Approximately 800 feet upstream of Hillcrest Road	*2107
Hominy Creek:	
At Interstate Route 40	*2021
At Luther Road	*2178
Smith Mill Creek:	
At Johnston School Road	*2165
Approximately 0.44 mile upstream of Johnston School Road	*2205
Newfound Creek:	
Approximately 1.0 mile downstream of State Road 63 (Leicester Highway)	*1968
At Morgan Branch Road (State Route 1220)	*2155
Moore Creek:	
Approximately 0.46 mile (2,428 feet) downstream of Interstate 40	*2084
At Monte Vista Road (State Route 1224)	*2202
Swannanoa River:	
At U.S. Highway 70	*2060
Approximately 0.8 mile upstream of County Road	*2519
Bull Creek:	
Approximately 150 feet upstream of confluence with Swannanoa River	*2108
At Bull Creek Road	*2289
McKinnish Branch:	
Upstream side of Cove Road	*2158
Approximately 370 feet upstream of Cove Road	*2165
Pole Creek:	
At confluence with Hominy Creek	*2086
Approximately 330 feet downstream of U.S. Routes 19 and 23	*2086
Maps available for inspection at the Buncombe County Engineer's Office, 30 Valley Street, Asheville, North Carolina.	
Woodfin (town), Buncombe County (FEMA Docket No. 7149)	
Beaverdam Creek:	
At confluence with French Broad River	*1941
Just downstream of U.S. Highway 19 and 23	*2040
Tributary to Beaverdam Creek:	
At confluence with Beaverdam Creek	*2049
At Hillcrest Road	*2098
Maps available for inspection at the Town Administrator's Office, 90 Elk Mountain Road, Woodfin, North Carolina.	
OHIO	
Fairfield County (unincorporated areas) (FEMA Docket No. 7149)	
Raccoon Run:	
At the upstream face of State Route 664	*761

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 400 feet upstream of Zion Road	*806
Maps available for inspection at the Regional Planning Office, Fairfield County Courthouse, 210 East Main Street, Lancaster, Ohio.	
Kenton (city), Hardin County (FEMA Docket No. 7149)	
Scioto River:	
At County Road 175	*959
At a point approximately 0.56 mile upstream of Leighton Street	*966
Maps available for inspection at the Kenton City Hall, 111 West Franklin Street, Kenton, Ohio.	
PENNSYLVANIA	
German (township), Fayette County (FEMA Docket No. 7149)	
Monongahela River:	
At confluence of Antram Run ..	*789
At upstream corporate limits ...	*798
Maps available for inspection at the German Township Building, R.D. #1, Box 287, McClellandtown, Pennsylvania.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3850 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 91–72; FCC 96–11]

Emergency Medical Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has reaffirmed its decision to establish the Emergency Medical Radio Service (EMRS), as well as reaffirmed the assignment of certain 453 MHz frequencies to the EMRS. Additionally, the Commission granted ProNet, Inc.'s request that its medical paging system operating on 453.125 MHz in the Chicago metropolitan area be permanently grandfathered. Finally, the Commission permitted certain licensees (medical services, rescue organizations, disaster relief organizations and beach patrols) to use Channels 161–170 as they are engaged in safety-of-life services. These actions were taken to improve the communications capabilities of entities engaged in providing life support activities. The rule changes and the grant of the waiver request will ensure the reliability of emergency medical communications.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* PR Docket No. 91–72, FCC 96–11, adopted January 18, 1996, and released February 8, 1996. The full text of this *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

This *Memorandum Opinion and Order* imposes no paperwork burden on the public.

Summary of Memorandum Opinion and Order

1. In this *Memorandum Opinion and Order,* we affirm the action taken in the *Report and Order* (58 Fed. Reg 12177 (March 3, 1993)), establishing the Emergency Medical Radio Service (EMRS) as a new Public Safety Radio Service under Subpart B of Part 90 of the Commission's Rules. The record substantiates the need for this new radio service to ensure the reliability of emergency medical communications. We also affirm the reassignment of four 453 MHz frequencies (453.025/.075/.125/.175 MHz) from the Special Emergency Radio Service (SERS) to the EMRS. These frequencies, previously assigned for one-way paging operations, were chosen as particularly appropriate for EMRS use because they minimize disruption to the remaining non-EMRS SERS entities.

2. ProNet, Inc.(ProNet), a petitioner for reconsideration of the *Report and Order,* mistakenly believes that it should be accorded a hearing pursuant to Section 316 of the Communications Act of 1934, as amended, before its radio license is modified. Under this statutory provision, a license is not considered modified when the Commission—acting by rule making—affects the rights of all licensees of a particular class.

3. ProNet has substantiated its request for permanently waiving mandatory reassignment of 453.125 MHz in the greater metropolitan Chicago area to EMRS. It commissioned a study of spectrum usage in the Chicago area as well as submitted relevant affidavits. Although only required to meet one criterion, ProNet met all the established criteria to justify grant of the waiver request. First, it appears that ProNet's system is intensely utilized. Second, relocation of ProNet's medical paging system would not serve the public interest because no reasonable alternative for its paging system is available in the Chicago area. Third, petitioner illustrates the continued availability of MED channel capacity in metropolitan Chicago and, therefore, there appears to be adequate spectrum for emergency medical service transmissions in the Chicago area. ProNet has successfully demonstrated that unique circumstances are involved in its case, thus warranting waiver.

4. ProNet's request for authority to be licensed to operate transmitting facilities on 453.125 MHz anywhere is Wisconsin, Illinois and Indiana—within a one hundred mile radius of its existing site—is denied. This request involves future operations and was not contemplated by the waiver provisions contained in the *Report and Order.*

5. Finally, the Commission will permit licensees eligible to operate radio facilities as medical services (47 CFR § 90.35), rescue organizations (47 CFR § 90.37), disaster relief organizations (47 CFR § 90.41) and beach patrols (47 CFR § 90.45) to use narrowband Channels 161–170 to enable them—while conducting safety-of-life communications—to communicate with one another. These four service categories need frequencies for Mutual Aid purposes. Permitting those licensed in these categories to use Channels 161–170 in the 220–222 MHz band will serve the public interest by enhancing interoperability between many types of emergency providers in safety-of-life situations.

List of Subjects in 47 CFR Part 90

Emergency medical services, Radio.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—[AMENDED]

Part 90 Private land mobile radio services:

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.17 is amended by revising paragraph (c)(11) to read as follows:

§ 90.17 Local Government Radio Service.

* * * * *

(c) * * *

(11) This frequency is available for systems first licensed prior to March 31, 1980, for radio call box communications related to safety on highways in accordance with the provisions of § 90.241(c). No new systems will be authorized of this nature, but systems authorized prior to March 31, 1980 may be modified, expanded, and renewed. Also, effective April 2, 1993, this frequency is shared with EMRS systems in accordance with § 90.27.

* * * * *

3. Section 90.19 is amended by revising paragraph (e)(17) to read as follows:

§ 90.19 Police Radio Service.

* * * * *

(e) * * *

(17) This frequency is shared with the Fire and Emergency Medical Radio Services.

* * * * *

4. Section 90.21 is amended by revising paragraph (c)(8) to read as follows:

§ 90.21 Fire Radio Service.

* * * * *

(c) * * *

(8) This frequency is shared with the Police and Emergency Medical Radio Services.

* * * * *

5. Section 90.27 is amended by revising the second sentence of paragraph (a), and by adding the words ''or mobile'' to the Class of station(s) for Frequencies 453.025, 453.075, 453.125 and 453.175 MHz in paragraph (b), to read as follows:

§ 90.27 Emergency Medical Radio Service.

(a) * * * Applications submitted by persons or organizations (governmental or otherwise) other than the governmental body having jurisdiction over the state's emergency medical service plans must be accompanied by a statement prepared by the governmental body having jurisdiction over the state's emergency medical services plan indicating that the applicant is included in the state's emergency plan or otherwise supporting the application.

* * * * *

6. Section 90.238 is amended by revising paragraph (h) to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(h) 458–468 MHz band (as available in the Emergency Medical Radio Service for bio-medical telemetry operations).

* * * * *

7. Section 90.243 is amended by revising paragraphs (a)(1), (a)(2), and (b)(1) to read as follows:

§ 90.243 Mobile relay stations.

(a) * * *

(1) On frequencies below 450 MHz, except for the 220–222 MHz band, mobile relay stations may be authorized within the contiguous 48 states to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry-Conservation, Emergency Medical, Power, Petroleum, Forest Products, Manufacturers, Telephone Maintenance, and Railroad Radio Services.

(2) On frequencies below 450 MHz, except for the 220–222 MHz band, mobile relay stations may be authorized outside the contiguous 48 states to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry-Conservation, Emergency Medical, Power, Petroleum, Forest Products, Manufacturers, Telephone Maintenance, Railroad, Business, and Special Industrial Radio Services.

* * * * *

(b) * * *

(1) In the Emergency Medical and Special Emergency Radio Services, medical services systems in the 150–160 MHz band are permitted to be cross banded for mobile and control station operations with mobile relay stations authorized to operate in the 450–470 MHz band.

* * * * *

8. Section 90.273 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 90.273 Availability and use of frequencies in the 421–430 MHz band.

* * * * *

(b) Channels in the public safety pool are available for assignment to eligibles in the Public Safety and Special Emergency Radio Services. * * *

* * * * *

9. Section 90.421 is amended by redesignating paragraph (k) as paragraph (l) and adding new paragraph (k) to read as follows:

§ 90.421 Operation of mobile units in vehicles not under the control of the licensee.

* * * * *

(k) Mobile units licensed in the Emergency Medical Radio Service may be installed in a vehicle or be hand-carried for use by any person with whom cooperation or coordination is required for medical services activities.

* * * * *

10. Section 90.477 is amended by revising the first sentence of paragraph (d)(3) to read as follows:

§ 90.477 Interconnected systems.

* * * * *

(d) * * *

(3) In the Special Emergency, Business, Special Industrial, Automobile, and Taxicab Radio Services, interconnection will be permitted only where the base station site or sites of proposed stations are located 120 km (75 mi) or more from the designated centers of the urbanized areas listed below. * * *

* * * * *

11. Section 90.483 is amended by revising the third sentence of paragraph (d) to read as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

* * * * *

(d) * * * This provision does not apply to systems licensed in the Police, Fire, Local Government, Emergency Medical, Special Emergency, Power, Petroleum and Railroad Radio Services, or above 800 MHz. * * *

12. Section 90.617 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 90.617 Frequencies in the 809.750–824/854.750–869 MHz and 896–901/935–940 MHz bands available for trunked or conventional system use in non-border areas.

(a) The channels listed in Table 1 and paragraph (a)(1) of this section for the Public Safety Category are available to applicants eligible in the Public Safety and Special Emergency Radio Services. * * *

* * * * *

13. Section 90.619 is amended by revising the first sentence of paragraph (a)(1) and the first sentence of paragraph (b)(7)(iii) to read as follows:

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.

(a) * * *

(1) Table 1A lists the channels in the 806–821/851–866 MHz band Public Safety Category that are available for assignment to applicants eligible in the Public Safety and Special Emergency Radio Services. * * *

* * * * *

(b) * * *

(7) * * *

(iii) The Public Safety Category consists of the Public Safety and the Special Emergency Radio Services. * * *

14. Section 90.631 is amended by revising the second sentence of paragraph (g) to read as follows:

§ 90.631 Trunked system loading, construction, and authorization requirements.

* * * * *

(g) * * * Remote or satellite stations of wide area systems in the Public Safety, Special Emergency, Telephone Maintenance, and Power Radio Services may be authorized on a primary basis if such stations are the first to be authorized in their area of operation on the frequency or group of frequencies. * * *

* * * * *

15. Section 90.720 is revised to read as follows:

§ 90.720 Channels available for public safety/mutual aid.

(a) Part 90 licensees whose licenses reflect a two-letter radio service code beginning with the letter ''P'' are authorized by this rule to use mobile and/or portable units on Channels 161–170 throughout the United States, its territories, and possessions to transmit:

(1) Communications relating to the immediate safety of life; or

(2) Communications to facilitate interoperability among public safety entities, and public safety entities and Special Emergency Radio Service eligibles in §§ 90.35, 90.37, 90.41 and 90.45.

(b) Any entity eligible to obtain a license under subpart B of this part or eligible to obtain a license under §§ 90.35, 90.37, 90.41 and 90.45 of subpart C of this part is also eligible to obtain a license for base/mobile operations on Channels 161–170. Base/mobile or base/portable communications on these channels that do not relate to the immediate safety of life or to communications interoperability among public safety entities, and public safety and the above specified special emergency entities may only be conducted on a secondary non-interference basis to such communications.

[FR Doc. 96–3821 Filed 2–20–96; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1825

Acquisition of Japanese Products and Services

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

ACTION: Final rule.

SUMMARY: This rule changes requirements for acquisition by NASA when Japanese products or services are offered. In negotiations with Japan, the U.S. Trade Representative has removed NASA from the list of agencies required to acquire Japanese products and services on a non-discriminatory basis. This was in response to the inability to reach agreement with Japanese negotiators on including the Japanese space agency under a trade agreement.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Jefferson, (202) 358–0409.

SUPPLEMENTARY INFORMATION:

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1825

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR part 1825 is amended as follows.

PART 1825—[FOREIGN ACQUISITION]

1. The authority citation for 48 CFR part 1825 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. Section 1825.401 is added to read as follows:

1825.401 Definitions.

For acquisition by NASA, the definition of ''designated country'' in FAR 25.401 excludes ''Japan.'' NASA is not obligated to provide non-discriminatory treatment to Japanese products or services under the World Trade Organizations Government Procurement Agreement (GPA) effective January 1, 1996.

[FR Doc. 96–3812 Filed 2–20–96; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 960212026–6026–01; I.D. 020296A]

RIN 0648–XX44

Western Pacific Crustacean Fisheries; 1996 Initial Quota

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

ACTION: Initial quota for crustaceans for 1996.

SUMMARY: NMFS announces a 1996 initial quota of 143,863 lobsters for the Northwestern Hawaiian Islands (NWHI) crustacean fishery. The quota was calculated according to the formula in Amendment 7 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). The final quota for the 1996 fishing year, which begins July 1, 1996, will be announced after the first month of fishing.

EFFECTIVE DATE: Effective July 1, 1996.

ADDRESSES: Copies of Amendment 7 and the associated background material for determining the quota may be obtained from Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop Street, Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Mr. Svein Fougner, 310–980–4034; Mr. Alvin Z. Katekaru, 808–973–2985; or Ms. Kitty Simonds, 808–522–8220.

SUPPLEMENTARY INFORMATION: The crustacean fisheries of NWHI are managed by the Secretary of Commerce (Secretary) according to the FMP, which was prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act. Regulations affecting the U.S. fishery are at 50 CFR part 681.

The annual quota for the crustacean fishery is announced in two steps. First, based on previous years' fishery data, sampling during research cruises, and other available data, the Director, Southwest Region, NMFS (Regional Director) determines an initial quota, which is announced in the Federal Register by NMFS. A population model by which the quota is determined is described in Amendment 7 to the FMP. The final quota for the year is then determined based on the initial quota, adjusted after consideration of actual commercial fisheries data collected during the first month of fishing. These actual catch and effort data, in conjunction with the previous information, provide an additional indicator of the status of the lobster stocks in NWHI. Amendment 7 provides that an annual quota be set at a level permitting an average catch per unit of effort (CPUE) of 1.0 for the fleet. The Regional Director has used the formula in Amendment 7 to set an initial quota for 1996 of 143,863 lobsters (spiny and slipper lobster combined). The final quota, to be announced in the Federal Register as soon as practicable after August 15, 1996, may increase or decrease substantially from the initial quota. The Southwest Region, NMFS, will monitor landings against the quota and issue timely reports of summary data. The Southwest Region also will promptly notify participants in the fishery of any changes in the fishery; however, participants are advised to contact the Southwest Region (see **ADDRESSES**) periodically to stay abreast of any change in the quota and progress of the fishery toward attaining the quota. Under the procedures in 50 CFR 681.31(c), NMFS will announce the date upon which the quota will be reached or exceeded and close the fishery.

A proposed Amendment 9 to the FMP has been prepared by the Council. The amendment proposes changes in the quota-setting procedure that, if approved by the Secretary and implemented, would affect the 1996 fishery. The amount, size, and condition of lobster that may be harvested also would change if Amendment 9 is approved and implemented. Amendment 9 would be implemented by notice-and-comment rulemaking, so fishermen would be notified of any changes made to the regulations governing the 1996 fishery and the associated harvest limit.

Classification

This action is authorized by 50 CFR part 681 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries (AA), NOAA, finds that since this notice merely announces a quota resulting from the nondiscretionary application of the objective quota formula in Amendment 7 to the FMP, no useful purpose would be served by providing prior notice and opportunity for public comment. Accordingly, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive as unnecessary the requirement to provide prior notice and opportunity for public comment.

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

Dated: February 14, 1996.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–3779 Filed 2–15–96; 11:20 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 35
Wednesday, February 21, 1996

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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts

AGENCY: General Accounting Office.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The General Accounting Office (GAO) is soliciting comments on how its bid protest procedures can be revised in order to facilitate GAO's meeting a new statutory deadline for issuing decisions, while also improving the overall effectiveness of the bid protest process at GAO. GAO is reviewing, and will be revising, its Bid Protest Regulations in light of the requirement in the National Defense Authorization Act for Fiscal Year 1996 that GAO issue bid protest decisions within 100 calendar days from the time a protest is filed at GAO.

DATES: Comments must be submitted on or before March 22, 1996.

ADDRESSES: Comments should be addressed to: Michael R. Golden, Assistant General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Michael R. Golden (Assistant General Counsel) or Linda S. Lebowitz (Senior Attorney), 202–512–9732.

SUPPLEMENTARY INFORMATION: The National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106, which was enacted on February 10, 1996, requires GAO, effective August 8, 1996, to issue bid protest decisions within 100 calendar days from the time a protest is filed at GAO, shortening the current 125-calendar-day requirement. GAO will revise its bid protest regulations to comply with this new deadline. GAO is inviting public participation in the revision process by soliciting comments on how it should revise its regulations both in order to facilitate meeting the new timeliness requirement and to improve the overall effectiveness of the GAO bid protest process.

On January 31, 1995, GAO published a proposed rule (60 FR 5871) implementing the Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. 103–355, 108 Stat. 3243, dated October 13, 1994, and reflecting the practice that had evolved at GAO with respect to protective orders and hearings. On August 10, 1995, GAO published a final rule (60 FR 40737).

In comments on the proposed rule, several commenters suggested that GAO revise its timeliness rules to permit the timely filing of a protest 5 calendar days after the new statutorily required debriefing, that is, concurrent with the new requirements for obtaining a stay and independent of the time from which the protester may otherwise have learned of a basis of protest. In adopting the final rule, GAO did not consider this change to its timeliness rules because it believed that the recommendation warranted an opportunity for public comment. GAO invites comments on this recommended change to its timeliness rules in light of the new, shorter statutory period for resolving bid protests and the debriefing requirements contained in FASA and the National Defense Authorization Act for Fiscal Year 1996.

In light of the new, shorter statutory period for resolving bid protests, GAO also invites suggestions addressing the feasibility of promoting the early production of documents in appropriate cases. GAO notes that since October 1995, parties have frequently agreed to early document production, resulting in the expeditious resolution of these protests including dismissals and withdrawals of the protests in whole or in part.

In addition, GAO welcomes the submission of ideas regarding the appropriate length of regulatorily imposed deadlines, including the time periods for filing supplemental protests, comments, and supplemental document requests, as well as suggestions concerning the use of accelerated or alternative procedures to more expeditiously resolve bid protests. GAO anticipates publishing a proposed rule for public comment on or before May 1, 1996.

Comments with respect to this advance notice of proposed rulemaking should reference file number B–259187.2. Comments may be filed by hand delivery or mail at the address in the address line, or comments may be filed by facsimile transmission at 202–512–9749.

Robert P. Murphy,
General Counsel.

[FR Doc. 96–3897 Filed 2–20–96; 8:45 am]
BILLING CODE 1610–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–35–AD]

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Lockheed Model 382 series airplanes, that currently requires a revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. That AD also requires installation of certain valve housings for the propeller governor on the outboard engines. This proposal would revise the applicability of the existing AD to remove certain airplanes. This proposal also would revise references to a certain replacement part number of a valve housing. The actions specified by the proposed AD are intended to ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff.

DATES: Comments must be received by March 11, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–35–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Campus Building, Suite 2–160, 1701 Columbia Avenue, College Park, Georgia 30337–2748.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, Campus Building, Suite 2–160, 1701 Columbia Avenue, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–35–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–35–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 26, 1995, the FAA issued AD 95–12–05, amendment 39–9255 (60 FR 28715, June 2, 1995), applicable to certain Lockheed Model 382 series airplanes, to require a revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. That AD also requires installation of certain valve housings for the propeller governor on the outboard engines. That action was prompted by a report of a change that had been incorporated into the propeller governor of these airplanes during production, which altered the thrust decay characteristic of the propeller when operating in an engine failure scenario. The requirements of that AD are intended to ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff.

Since the issuance of that AD, the manufacturer has advised the FAA that servo-type valve housing assemblies having certain part numbers cited in the existing AD were incorrect. Specifically, servo-type valve housing assemblies cited in the applicability as part numbers 714325–2, –5, and –6, are incorrect since they are parts configured specifically for the military; only part numbers 714325–3 and –7 should be cited.

The manufacturer also advised that the replacement servo-type valve housing assembly having part number 714325–1, as cited in paragraph (b) and NOTE 2 of the existing AD, is also a valve housing configured for the military. In addition, part number 714325–1 does not have a particular switch that is necessary to drive the annunciation required by the FAA. The correct replacement part is a valve housing specified by governor assembly control number 577888 on the propeller governors installed on the outboard engines.

Based on this information, the FAA has determined the following:

1. The applicability of the existing AD must be revised to cite only airplanes equipped with servo-type valve housing assemblies having part numbers 714325–3 and –7;

2. The replacement servo-type valve housing assembly (part number 71425–1) cited in the existing AD must be specified as governor assembly control number 577888; and

3. The servo-type valve housing assembly part numbers referenced in NOTE 2 of the existing AD must be revised to cite only part numbers 714325–3 and –7.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 95–12–05 to continue to require the previous revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. The proposed AD would also continue to require the installation of certain valve housings for the propeller governor on the outboard engines. The revisions to this proposed AD are specified as Items 1, 2, and 3, above.

Additionally, the compliance time for the installation of the valve housings has been revised to 12 months after the effective date of the final rule for this new AD. (In AD 95–12–05, the compliance time for this installation was 24 months.) This revision will ensure that the date of compliance with this installation requirement will fall at approximately the same time that compliance was required by the existing AD. As indicated in the existing AD, this time represents what the FAA considers the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required installation without compromising safety. This compliance time interval also will allow the installation to be accomplished during the time of a regularly scheduled maintenance for most affected operators.

There are approximately 112 Model 382, 382E, and 382G series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 95–12–05 take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $90,000 per airplane. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $1,628,640, or $90,480 per airplane. Since this proposed AD only revises certain information and part numbers, it would add no new costs to the affected operators.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the only U.S. operator of the affected Lockheed Model

382 series airplanes has already equipped half of its fleet (9 airplanes) with the valve housing assembly that will be required by this proposed rule. Therefore, the future economic cost of this proposed rule on U.S. operators is now only $814,320.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9255 (60 FR 28715, June 2, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Lockheed: Docket 96–NM–35–AD. Supersedes AD 95–12–05, Amendment 39–9255.

Applicability: Model 382, 382E, and 382G series airplanes; equipped with a servo-type valve housing assembly having part number 714325–3 or –7 installed on any outboard engine; 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 request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff, accomplish the following:

(a) Within 60 days after August 10, 1994 (the effective date of AD 94–14–09, amendment 39–8961), revise the Limitations and Performance Data Sections of the FAA-approved Airplane Flight Manual (AFM) to include information specified in Lockheed Airplane Flight Manual Supplement 382–16, dated August 11, 1993, and operate the airplane accordingly thereafter. The requirements of this paragraph may be accomplished by inserting AFM Supplement 382–16 into the AFM.

(b) Within 12 months after the effective date of this AD, replace the servo-type valve housing assemblies having part number 714325–3 or –7 with a governor assembly control number 577888 on the propeller governors installed on the outboard engines, in accordance with Lockheed Document SMP–515C, Card No. CO–135. Replacement of these assemblies with governor assembly control numbers 577888, constitutes terminating action for the requirements of paragraph (a) of this AD; once the replacement is accomplished, the AFM revision may be removed.

Note 2: Propeller governors with servo-type valve housing assemblies having part number 714325–3 or –7 may be retained or replaced with a governor assembly control number 577888 for use on the inboard engine positions.

(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, Atlanta Aircraft Certification Office (ACO), FAA, Small 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, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(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.

Issued in Renton, Washington, on February 14, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3833 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–191–AD]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This proposal would require inspections to detect damage of the sidewall vent box diaphragms, and repair, if necessary. This proposal also would require eventual installation of stops on the vent box diaphragm, which would terminate the inspection requirements of the proposed AD. This proposal is prompted by reports of damage to sidewall vent box diaphragms, which can result in non-functional diaphragms during a rapid decompression. The actions specified by the proposed AD are intended to prevent buckling of the floor beams due to insufficient air flow of the cabin sidewall vent box diaphragms during rapid decompression, and subsequent reduction in the controllability of the airplane.

DATES: Comments must be received by April 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–191–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the

FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5338; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–191–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–191–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports indicating that the cabin sidewall vent box diaphragms on McDonnell Douglas Model MD–11 series airplanes have been found to be damaged. In one case, during an interior cabin modification, an operator found many of these diaphragms on one airplane bent into an undesirable shape; these units failed to pass a decompression test. Other operators have reported similar damage. Investigation revealed that such damage may be caused by passengers or maintenance personnel inadvertently hitting or applying pressure to the vent box face plate. This causes excessive loads to the sidewall vent box diaphragm and stop pads. Such damage to the diaphragm can prevent sufficient air flow during rapid decompression on an airplane. This condition, if not corrected, could result in buckled floor beams, and subsequent reduction in the controllability of the airplane.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995, which describes procedures for repetitive inspections to detect damage of the sidewall vent box diaphragm, and repair, if necessary. The service bulletin also describes procedures for installation of stops in all vent box diaphragms, which, when accomplished, terminates the need for the repetitive inspections. Installation of the stops enables the diaphragm to withstand excessive loads and minimizes damage to the vent box diaphragm.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive inspections to detect damage of the sidewall vent box assemblies. Initially, the proposed AD would permit continued flight if only a certain number of assemblies are found to be damaged. However, once that number is exceeded, the damaged assemblies would be required to be modified, prior to further flight, until the remaining number of damaged assemblies does not exceed a certain number. The proposed AD also would require the eventual installation of stop pads for all vent box diaphragms and reidentification of the assemblies, which, when accomplished, terminates the requirement for the repetitive inspections. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

There are approximately 123 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 39 airplanes of U.S. registry would be affected by this proposed AD.

To accomplish the proposed inspections would take approximately 2 work hours per airplane per inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $4,680, or $120 per airplane, per inspection cycle.

To accomplish the proposed installation and reidentification would take a total of approximately 270 work hours per airplane. This figure represents 3 work hours per vent box, and up to a maximum of 90 vent boxes on an airplane. The average labor rate is $60 per work hour. The cost of required parts would be negligible; the parts may be fabricated locally. Based on these figures, the cost impact of the proposed installation on U.S. operators is estimated to be $631,800, or $16,200 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 95–NM–191–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995; 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 request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent buckling of the floor beams due to insufficient air flow of the cabin sidewall vent box diaphragms during rapid decompression, and subsequent loss of airplane control capabilities; accomplish the following:

(a) Within 90 days after the effective date of this AD, perform an inspection to detect damage of the sidewall vent box diaphragms, in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. Based on the findings of the initial inspection, or any repetitive inspection, accomplish the requirements of paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable:

(1) Condition 1. If no damage is detected: Repeat the inspection at intervals not to exceed 90 days.

(2) Condition 2. If damage is detected, but the number of damaged sidewall vent box assemblies does not exceed the applicable allowable number specified in Table 1 of the alert service bulletin: Repeat the inspection at intervals not to exceed 90 days.

(3) Condition 3. If damage is detected, and the number of damaged vent box assemblies exceeds the applicable number specified in Table 1 of the alert service bulletin: Prior to further flight, install stops on and re-identify as many damaged sidewall vent box assemblies as necessary so that the total number of damaged vent box assemblies does not exceed the applicable allowable number specified in Table 1 of the alert service bulletin. Accomplish the installation of the stops and reidentification of the assemblies in accordance with the alert service bulletin. The installation of stops on and reidentification of an assembly constitutes terminating action for the repetitive inspections of that assembly only. All other assemblies must continue to be inspected thereafter at intervals not to exceed 90 days.

(b) Within 30 months after the effective date of this AD, install stops on and reidentify all sidewall vent box assemblies that do not already have stops installed and have not been reidentified in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. Accomplishment of this action constitutes terminating action for the inspection requirements of this AD.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(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.

Issued in Renton, Washington, on February 14, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3834 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–CE–18–AD]

Airworthiness Directives; Jetstream Aircraft Limited Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Jetstream Aircraft Limited (JAL) Jetstream Models 3101 and 3201 airplanes. The proposed action would require modifying the automatic airframe de-ice system to allow the wing and tail de-ice boots to automatically operate through one cycle. The present system repeats the wing de-ice boot inflation cycle before starting to inflate the tail de-ice boots. Reports of ice accumulating on the tail faster than the automatic tail de-ice boots inflate on the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent excessive ice accretion on the tail or wings of the affected airplanes, which could result in loss of control of the airplane.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–18–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041–6029, telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.3830, facsimile (322) 230.6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932, facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–18–AD.'' The postcard will be date stamped and return to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–18–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Under the current design of the airframe automatic de-ice system on certain JAL Jetstream Models 3101 and 3201 airplanes, the inflation cycle of the wing de-ice boots repeats before the tail de-ice boots inflate. The FAA has received reports of ice accumulating on the tail faster than the automatic de-ice system inflates the tail de-ice boots. These airplanes are equipped with a manual switch for both the wing and tail de-ice boots. Because the timing of the automatic de-ice system does not keep up with ice accretion, the FAA believes that most airplane operators pilots use the manual system for de-icing.

The problem with the manual switch is that the pilot must press the switch until the de-ice boot is inflated. This diverts the pilot's attention away from other critical duties during flight.

JAL has issued Jetstream Service Bulletin (SB) 30–JK 12033, Revision No. 1, dated October 20, 1995, which specifies procedures for modifying the airframe automatic de-ice system. This modification would allow both the wing and tail de-ice boots to inflate once through before inflation of either one is repeated. The automatic system may then be reset or the manual switch may be utilized.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent excessive ice accretion on the tail or wings of the affected airplanes, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other JAL Jetstream Models 3101 and 3201 airplanes of the same type design, the proposed AD would require modifying the automatic airframe de-ice system to allow the wing and tail de-ice boot systems to automatically operate through one cycle. Accomplishment of the proposed modification would be in accordance with Jetstream SB 30–JK 12033, Revision No. 1, dated October 20, 1995.

The FAA estimates that 260 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $50 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $91,000. This figure is based on the assumption that no owner/operator of the affected airplanes has accomplished the proposed modification.

Jetstream has informed the FAA that parts have distributed to owners/operators to equip approximately 22 of the affected airplanes. Assuming that each set of parts is installed on an affected airplane, the proposed cost impact would be reduced $7,700 from $91,000 to $83,300.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federal 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Jetstream Aircraft Limited: Docket No. 95–CE–18–AD.

Applicability: Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provisions, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe conditions has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent excessive ice accretion on the tail or wings of the affected airplanes, which could result in loss of control of the airplane, accomplish the following:

(a) Modify the automatic airframe de-ice system in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Service Bulletin No. 30–JK 12033, Revision No. 1, dated October 20, 1995.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector,

who may add comments and then send it to the Manager, Brussels ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029; or may examine these documents at the FAA, Central Regional, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 12, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3885 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 4, 4a, and 4b

[Docket No. 950929241–5241–01]

RIN 0605–XX02

Public Information, Freedom of Information and Privacy

AGENCY: Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Commerce proposes to amend its Freedom of Information Act and Privacy Act regulations to update and clarify them, and to make certain technical changes. The intent is to make them more helpful to the public.

DATES: Written comments must be received on or before March 22, 1996.

ADDRESSES: Address written comments to Andrew W. McCready, Attorney-Advisor, Office of the Assistant General Counsel for Administration, Rm. H5876, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Andrew W. McCready, Telephone: 202–482–8044.

SUPPLEMENTARY INFORMATION: On March 4, 1995, as part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. After conducting a review of the Department's Public Information, Freedom of Information and Privacy Act regulations, it was determined that the following amendments were necessary.

The proposed amendment to 15 CFR part 4 changes the duplication fee for processing Freedom of Information Act (FOIA) requests to reflect increased costs to the Department, makes technical corrections, makes clear that records responsive to FOIA requests include electronic records, updates telephone numbers and addresses, replaces a list of officials authorized to make initial denials of FOIA requests with a statement that heads of offices are authorized to grant or deny initial FOIA requests, and makes clarifying changes.

The proposed amendment to 15 CFR part 4a eliminates the requirement that the Department's Office of Security coordinate with the Office of the Assistant General Counsel for Administration with respect to declassification and FOIA matters, and changes the official responsible for adjudicating administrative appeals of denials of requests for classified information.

The proposed amendment to 15 CFR part 4b expands the list of Privacy Act Officers, and changes the official responsible for adjudicating Privacy Act appeals of requests for access, correction, and amendment.

It has been determined that this rule is not a significant rule under Executive Order 12866.

This rule does not contain a ''collection of information'' as defined by the Paperwork Reduction Act.

The Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the regulations are being updated and clarified, and certain technical changes are being made. The duplication fee is being changed to reflect increased costs to the Department. The overall intent is to make the regulations more helpful to the public.

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects

15 CFR Part 4

Freedom of Information, Public information, Privacy.

15 CFR Part 4a

Classified information, Freedom of information, Privacy.

15 CFR Part 4b

Privacy.

For the reasons set forth in the preamble, it is proposed that 15 CFR parts 4, 4a, and 4b be amended as follows:

PART 4—PUBLIC INFORMATION

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

Authority: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 553, Reorganization Plan No. 5 of 1950; 31 U.S.C. 3717.

§ 4.4 [Amended]

2. In the first sentence of § 4.4(c), remove ''H6628'' and add, in its place, ''H6020''; and in the last sentence of § 4.4(c), remove ''(202) 377–3271'' and add, in its place, ''(202) 482–4115''.

3. In the last line of § 4.4(e), remove the word ''the'' and add, in its place, the word ''this''.

§ 4.6 [Amended]

4. In the third sentence of § 4.6(a)(4), remove the word ''orginating'', and add, in its place, the word ''originating''.

5. In the second sentence of § 4.6(b)(3), remove the word ''dilligence'' and add, in its place, the word ''diligence''.

6. Section 4.6 is further amended by revising paragraphs (a)(3), (a)(6), (b)(5), introductory text, and (b)(5)(iv) and removing (b)(6) to read as follows:

§ 4.6 Initial determinations of availability of records.

(a) * * *

(3) Whether the records no longer exist, or are not in the unit's possession. The unit should, if it knows which unit of the Department may have the records, forward the request to it.

* * * * *

(6) In determining records responsive to a request, a unit ordinarily shall include only those records, including electronic records, within a unit's possession and control as of the date of its receipt of the request.

* * * * *

(b) * * *

(5) The head of any bureau, office, or division, or his or her superiors, are authorized to grant or deny any request for a record of that bureau, office, or division.

* * * * *

(iv) A brief statement of the right of the requester to appeal the determination to the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the determination, and the address to which the appeal should

be sent, in accordance with § 4.8 (a) and (b).

7. Section 4.7(d)(1) is removed and paragraphs (d) (2) and (3) are redesignated as (d) (1) and (2) respectively, and the introductory text of newly redesignated (d)(1) is revised to read as follows:

§ 4.7 Predisclosure notification procedures for confidential commercial information.

* * * * *

(d) * * *

(1) The unit shall provide a submitter with notice of a request whenever:

* * * * *

8. In § 4.8, in paragraph (a) add a sentence after the first sentence, and in paragraph (b) remove ''5882'' and add in its place, ''H5876'', to read as follows:

§ 4.8 Appeals from initial determinations or untimely delays.

(a) * * * For purposes of this section, an appeal will be considered submitted as of the date of the postmark or proof of receipt by a private carrier or, if not mailed or entrusted to a private carrier, the date of actual receipt by the Office of General Counsel. * * *

§ 4.9 [Amended]

9. In § 4.9(b)(2)(iii)(A) remove ''$.07'' and add, in its place, ''$.15''.

10. Section 4.9 is further amended by removing the introductory paragraph of (d)(2), redesignating (d)(2)(i), (d)(2)(ii), and (d)(3) through (d)(7) as (d)(2) through (d)(8) respectively, and revising the newly designated (d)(2) and (d)(4), to read as follows:

§ 4.9 Fees.

* * * * *

(d) * * *

(2) When the estimated charges for processing a request under this part exceed $250, the Department may require the requester to make an advance payment of an amount up to the entire estimated charges before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester with a history of timely payment of FOIA fees (i.e., payment within 30 days of the date of the billing).

* * * * *

(4) Whenever the Department acts pursuant to paragraphs (d)(2) or (d)(3) of this section, the administrative time limits prescribed in 5 U.S.C. 552(a)(6) will begin only after the agency has received payment of the required fee.

Appendix A of Part 4—[Amended]

11. Appendix A of Part 4 is amended by removing the final sentence of Sec. 5.04b of DAO 205–12, (''In addition, the Director of the Office of Public Affairs or his or her designee shall be informed before any decision on an appeal from an initial denial is issued.'')

12. Appendix B of part 4 is revised to read:

Appendix B—Freedom of Information; Public Facilities and Addresses for Requests for Records

The public reference facilities listed below have been established within the Department of Commerce for (a) Public inspection and copying of materials from various units within the Department under 5 U.S.C. 552(a)(2), or determined to be available for response to requests made under 5 U.S.C. 552(a)(3); (b) furnishing information and otherwise assisting the public concerning Department operations under the Freedom of Information Act; and (c) receipt and processing of requests for records under 5 U.S.C. 552(a)(3).

Unless otherwise noted, each address listed below is the respective unit's public inspection facility and mailing address for receipt and processing of requests for records under 5 U.S.C. 552(a)(3), as described in the preceding paragraph. Requests should be addressed to the unit which the requester knows or has reason to believe has possession, control, or primary concern with the records sought. Otherwise, requests should be addressed to the Central Reference and Records Inspection Facility.

(1) Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, U.S. Department of Commerce, room H6020, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–4115. This facility serves the Office of the Secretary, all other units of the Department not identified below, and those units identified below which do not have separate public inspection facilities, in accordance with 15 CFR 4.4(c).

(2) Bureau of the Census, Program and Policy Development Office, U.S. Department of Commerce, room 2430, Federal Building 3, Washington, DC 20233. Phone (301) 457–2520. This agency maintains a separate public inspection facility in room 2455, Federal Building 3, Suitland, Maryland.

(3) Bureau of Economic Analysis/ Economics and Statistics Administration, Public Reference Facility, U.S. Department of Commerce, room H4836, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–3308. This unit does not maintain a separate public inspection facility.

(4) Economic Development Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H7001, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–3687. Mailing addresses of Regional EDA offices:

(i) Philadelphia Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Curtis Center, Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106.

(ii) Atlanta Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308.

(iii) Denver Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, room 670, 1244 Speer Boulevard, Denver, Colorado 80204.

(iv) Chicago Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 111 North Canal Street, Suite 855, Chicago, IL 60606.

(v) Seattle Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Jackson Federal Building, room 1856, 915 Second Avenue, Seattle WA 98174.

(vi) Austin Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Grant, Building, Suite 201, 611 East 6th Street, Austin, Texas 78701.

(5) Bureau of Export Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H4525, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–5653.

(6) International Trade Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H4001, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Phone (202) 482–3756.

(7) Minority Business Development Agency, Freedom of Information Office, U.S. Department of Commerce, room H5706, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–2025. This unit does not maintain a separate public inspection facility.

(8) National Institute of Standards and Technology, Freedom of Information Request Control Desk, Administration Building, room A–1105, Gaithersburg, Maryland 20899. Phone (301) 975–2389. This agency maintains a separate public inspection facility in room E–106, Administration Building, Gaithersburg, Maryland.

(9) National Oceanic and Atmospheric Administration, Public Reference Facility, room 714 WSC–5, 6010 Executive Boulevard, Rockville, Maryland 20852. Phone (301) 413–0610.

(10) National Technical Information Service, Freedom of Information room 203, Forbes Building, 5285 Port Royal Road, Springfield, Virginia 22161. Phone (703) 487–4736. This unit does not maintain a separate public inspection facility.

(11) National Telecommunications and Information Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, room H4713, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–1816. This unit maintains a separate public inspection facility in room H1609.

(12) Patent and Trademark Office, Freedom of Information Request Control Desk, Box 8, Washington, DC 20231. Phone (703) 305–9035. This agency maintains a separate public inspection facility in the Public Search Room, room 1A01, Crystal Plaza 3,

2021 Jefferson Davis Highway, Arlington, Virginia.

(13) United States Travel and Tourism Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, room H1520, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–3811.''

Appendix C to Part 4—[Removed]

13. Appendix C is removed.

PART 4a—CLASSIFICATION, DECLASSIFICATION, AND PUBLIC AVAILABILITY OF NATIONAL SECURITY INFORMATION

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

Authority: Sec. 5.3(b), E.O. 12356; 47 FR 14874, April 6, 1982; 47 FR 15557, April 12, 1982.

§ 4a.8 [Amended]

15. In § 4a.8(b)(4), remove the words, ''All denials of information under the Freedom of Information Act must be approved by the Office of the Assistant General Counsel for Administration.''

16. In § 4a.9 remove paragraphs (e)(2) and (e)(3), redesignate paragraph (e)(4) as (e)(2), and revise paragraph (f) to read as follows:

§ 4a.9 Request under the Privacy Act and the Freedom of Information Act involving classified records.

* * * * *

(f) Receipt of an appeal for reconsideration of denial of a classified record under PA/FOIA: Appeals under this section shall be addressed to the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial. The Assistant General Counsel for Administration or the General Counsel shall refer the record(s) to the Director, Office of Security, for a declassification review. The Director may overrule previous determinations in whole or in part when, in his or her judgment, continued protection in the interest of national security is no longer required. If the information under review no longer requires classification, it shall be declassified. The Director shall inform the official by whom the referral was made of his or her decision.

PART 4b—PRIVACY ACT

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

Authority: 5 U.S.C. 552a; 5 U.S.C. 553; 5 U.S.C. 552; 5 U.S.C. 301; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

18. Section 4b.1 is amended by revising paragraphs (d)(1) and (e) to read as follows:

§ 4b.1 Purpose and scope.

* * * * *

(d) * * *

(1) Requests for records which do not pertain to the individual making the request, or the individual about whom the request is made if the requester is the parent or guardian of the individual;

* * * * *

(e) Any request for records which pertains to the individual making the request, or to the individual about whom the request is made if the requester is the parent or guardian of the individual, shall be processed under the Act and this part and under the Freedom of Information Act and the Department's implementing regulations (part 4 of this chapter), regardless of whether the Act or the Freedom of Information Act are mentioned in the request.

19. Section 4b.2(b)(6) is revised to read as follows:

§ 4b.2 Definitions.

* * * * *

(b) * * *

(6) The term *Privacy Officer* means the head of any bureau, office, or division, or his or her superiors. Each Privacy Officer is authorized to receive and act upon any inquiry, request for access, or request for correction or amendment pertaining to a record of his or her bureau, office, or division.

* * * * *

§ 4b.3 [Amended]

20. In § 4b.3(f)(2), remove the words, ''General Counsel,'' and add, in their place, ''Assistant General Counsel for Administration''.

§ 4b.5 [Amended]

21. In § 4b.5(a)(2), remove the words, ''responsible General Counsel,'' and add, in their place, ''Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for sending an acknowledgment''.

22. In § 4b.5(g)(3)(ii), remove the words, ''General Counsel'' and add, in their place, ''Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial''.

23. In § 4b.9, paragraph (b) is revised, in paragraphs (c), (e), (h), and (i) remove the words ''General Counsel'' and add, in their place, ''Assistant General Counsel for Administration or the General Counsel'' and paragraph (g)(1) is amended by revising the third, fourth and fifth sentences to read as follows:

§ 4b.9 Appeal of initial adverse agency determination on correction or amendment.

* * * * *

(b) An appeal shall be addressed to the Assistant General Counsel for Administration (or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial), Department of Commerce, Room 5876, Washington, DC 20230. The processing of appeals will be facilitated if the words ''PRIVACY APPEAL'' appear in capital letters on both the envelope and the top of the appeal papers. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the Assistant General Counsel for Administration or General Counsel, as appropriate. An appeal which is not properly addressed by the individual will not be deemed to have been ''received'' for purposes of measuring the time periods in this section until actual receipt by the Assistant General Counsel for Administration or the General Counsel. In each instance when an appeal so forwarded is received, the Assistant General Counsel for Administration or the General Counsel, as appropriate, shall notify the individual that his or her appeal was improperly addressed and the date when the appeal was received at the proper address.

* * * * *

(g) * * *

(1) * * * Such a statement shall be filed with the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the final determination. It should provide the Department control number assigned to the request, indicate the date of the final determination and be signed by the individual. The Assistant General Counsel for Administration or the General Counsel shall acknowledge receipt of such statement and inform the individual of the date on which it was received;

* * * * *

§ 4b.11 [Amended]

24. In § 4b.11(c), remove the words, ''U.S. Department of Commerce'' and add, in their place ''Treasury of the United States''.

Sonya Stewart,

Director for Executive Budgeting and Assistance Management.

[FR Doc. 96–3801 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–FA–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 339

Announcement of Intent To Issue a Proposed Rulemaking for the DOD Range Rule

AGENCY: U.S. Army Environmental Center, Department of Defense.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Defense (DOD) announces its intent to formulate a regulation concerning closed, transferred, and transferring military ranges. The regulation will address safety, human health, and the environment on these ranges, and the Proposed Rulemaking is anticipated to be published in the Federal Register in April 1996. The Proposed Rulemaking publication will be followed by a 60 day public comment period.

FOR FURTHER INFORMATION CONTACT: Interested persons who would like to be placed on a mailing list to receive updates and information on DOD's progress on this proposed rule can submit their name and address to: DOD Range Rule, P.O. Box 3430, Gaithersburg, MD 20885–3430.

SUPPLEMENTARY INFORMATION: DOD will be promulgating these regulations under the authorities of 10 U.S.C. 2701, the Defense Environmental Restoration Program, and 10 U.S.C. 172, the Department of Defense Explosive Safety Board.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 96–3803 Filed 2–20–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–96–001]

Drawbridge Operation Regulations; Snohomish River, Everett, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily amend the regulations governing the operation of the twin State Route 529 drawbridge across the Snohomish River, mile 3.6, at Everett, Washington. The proposed temporary regulations would permit the drawspans to remain closed for several months so that the mechanical and electrical systems of the twin bridges can be overhauled. The proposed closed period is October 1, 1996, to January 31, 1997.

DATES: Comments must be received on or before April 29, 1996.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3410, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220–7270).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD13–96–001) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, Thirteenth Coast Guard District at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The drafters of this notice are Austin Pratt, Project Officer, Thirteenth Coast Guard District Aids to Navigation and Waterfront Management Branch, and Lieutenant Commander John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Background and Purpose

At the request of the Washington State Department of Transportation, the Coast Guard is considering a temporary amendment to the regulations governing the operation of the twin State Route 529 drawbridges across the Snohomish River at Everett, Washington. Currently, these bridges are required to open for the passage of vessels if one hour notice is provided. The proposed temporary regulations would permit the drawspans to remain closed for several months so that the mechanical and electrical systems of the twin bridges can be overhauled. The existing drawbridge operation regulations currently in effect would automatically be restored as soon as the proposed temporary regulations expire.

Discussion of Proposed Rule

The proposed rule would amend 33 CFR 117.1059 by temporarily suspending paragraph (c) and temporarily adding a new paragraph (i) to read that the twin State Route 529 drawbridges across the Snohomish River at Everett, Washington, need not open for the passage of vessels from October 1, 1996, until January 31, 1997. On February 1, 1997, the temporary regulation would terminate and paragraph (c) would again be in effect.

Regulatory Evaluation

This proposed temporary rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the commercial users of the waterway can pass under the bridge without an opening during low tide conditions.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant effect on a substantial number of small entities. ''Small entities'' include independently

owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a significant number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective October 1, 1996 through January 31, 1997, Paragraph (c) of 117.1059 is suspended and a new paragraph (i) is added to read as follows:

§ 117.1059 Snohomish River, Steamboat Slough, and Ebey Slough.

* * * * *

(i) The draws of the twin, SR 529, highway bridges across the Snohomish River, mile 3.6, at Everett need not open for the passage of vessels from October 1, 1996 through January 31, 1997.

Dated: February 5, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 96–3696 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD13–96–002]

Drawbridge Operation Regulations; Ebey Slough, Marysville, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily amend the regulations governing the operation of the State Route 529 drawbridge across Ebey Slough, mile 1.6, at Marysville, Washington. The proposed temporary regulations would permit the drawspan to remain closed for several months so that the mechanical and electrical systems of the bridge can be overhauled. The proposed closed period is February 1, 1997, to June 1, 1997.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3410, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220–7270.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD13–96–002) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, Thirteenth Coast Guard District at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The drafters of this notice are Austin Pratt, Project Officer, Thirteenth Coast Guard District Aids to Navigation and Waterfront Management Branch, and Lieutenant Commander John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Background and Purpose

At the request of the Washington State Department of Transportation, the Coast Guard is considering a temporary amendment to the regulations governing the operation of the State Route 529 drawbridge across Ebey Slough at Marysville, Washington. Currently, the bridge is required to open for the passage of vessels if one hour notice is provided. The proposed temporary regulations would permit the drawspan to remain closed for several months so that the mechanical and electrical systems of the bridge can be overhauled. The existing drawbridge operation regulations currently in effect would automatically be restored as soon as the proposed temporary regulations expire.

Discussion of Proposed Rule

The proposed rule would amend 33 CFR 117.1059 by temporarily suspending paragraph (h) and temporarily adding a new paragraph (i) to read that the State Route 529 drawbridge across Ebey Slough at Marysville, Washington, need not open for the passage of vessels from February 1, 1997, until June 1, 1997. On June 2, 1997, the temporary regulation would terminate and paragraph (h) would again be in effect.

Regulatory Evaluation

This proposed temporary rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review

by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that there is very little commercial use of the waterway and the fact that the upper reaches of Ebey Slough beyond the State Route 529 drawbridge can be reached by an alternate route using Steamboat Slough.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant effect on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a significant number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective February 1, 1997 through June 1, 1997 paragraphs (h) of 117.1059 is suspended and a new paragraph (j) is added to read as follows:

§ 117.1059 Snohomish River, Steamboat Slough, and Ebey Slough.

* * * * *

(j) The draws of the SR 529 highway bridge across Ebey Slough, mile 1.6, at Marysville, need not open for the passage of vessels from February 1, 1997 through June 1, 1997.

Dated: February 5, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 96–3697 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 157

[CGD 91–045]

RIN 2115–AF27

Structural Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to supplemental notice of proposed rulemaking.

SUMMARY: This document contains a correction to the supplemental notice of proposed rulemaking (CGD 91–045) which was published in the Federal Register on December 28, 1995 (60 FR 67226). The proposed regulations relate to the development of structural measures to reduce the threat of oil spills for existing tank vessels of 5,000 gross tons or more without double hulls.

FOR FURTHER INFORMATION CONTACT: LCDR Suzanne Englebert, Project Manager, Standards Evaluation and Development Division, at (202) 267–6490. This number is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Background

The supplemental notice of proposed rulemaking (SNPRM) represents part of the Coast Guard's three-step effort to establish structural and operational measures that are economically and technologically feasible for reducing the threat of oil spills from tank vessels without double hulls, as required by the Oil Pollution Act of 1990 (OPA 90). It analyzes a number of measures and describes the results of extensive cost and benefit research on those measures deemed technologically feasible. No regulatory text is introduced in this SNPRM; however, the comments received on the SNPRM will allow the Coast Guard to assess the economic feasibility of structural measures. Upon the request of the Department of Transportation, a new Regulatory Identification Number (RIN) has been assigned to the structural portion of this rulemaking. The former RIN was 2115–AE01.

Need for Correction

As published in the SNPRM, table 2 contains transcription errors that are in need of correction.

Dated: February 13, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

Correction of Publication

Accordingly, the publication on December 28, 1995 of the supplemental notice of proposed rulemaking (CGD 91–045), which is the subject of FR Doc. 95–31371 is corrected as follows:

1. On page 67236, table 2 is revised to read as follows:

TABLE 2—SCREENING ANALYSIS—SUMMARY OF COSTS

Baseline tanker model	Measure	New total cargo oil	Cargo oil shut-out		One-time refit (ROM) costs (M$)	Opportunity costs per year	
		(Bbls) (cu.m.)	(Bbls) (cu.m)	% Initial		International	U.S. coastal
70,000 dwt, Pre-MARPOL ...	1.a. PL/Spaces, 30% coverage.	523,444 83,221	7,072 1,124	1.3	1.9	$6,402,000	$9,918,000
70,000 dwt, Pre-MARPOL ...	1.b. PL/SBT, 30% coverage, with ballast to max. feasible draft.	470,283 74,769	60,233 9,576	11.4	0.5	6,402,000	9,918,000
70,000 dwt, Pre-MARPOL ...	1.c. PL/CBT, 30% coverage, empty to extent feasible.	470,283 74,769	60,233 9,576	11.4	0.2	6,402,000	9,918,000
70,000 dwt, MARPOL '73	2.a. HBL all tanks	389,854 61,982	153,655 24,429	28.3	0	6,402,000	9,918,000
70,000 dwt, MARPOL '73	2.b. HBL, equivalent to Regulation 13G.	477,892 75,979	65,617 10,432	12.1	0	6,402,000	9,918,000
70,000 dwt, Pre-MARPOL ...	3. PL/Spaces as in 1.c. and HBL as in 2.b.	443,948 70,582	86,567 13,763	16.3	0.2	6,402,000	9,918,000
70,000 dwt, MARPOL '73	4. Retrofit double bottom ...	484,209 76,983	59,300 9,428	10.9	9.7	6,402,000	9,918,000
70,000 dwt, MARPOL '73	5. Retrofit double sides	502,573 79,903	40,936 6,508	7.5	13.6	6,402,000	9,918,000
12,700 dwt, Tank Barge	6. PL/Spaces (install bulkheads).	237,072 37,691	12,844 2,042	5.1	2.8	(*)	(*)
12,700 dwt, Tank Barge	7. PL/Spaces using existing cargo tanks.	207,712 33,204	42,203 6,710	16.9	0.3	(*)	(*)
264,000 dwt, Pre-MARPOL .	1.a. PL/Spaces, 30% coverage.	2,031,370 322,962	46,597 7,408	2.2	12.4	$11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	1.b. PL/SBT, 30% coverage, with ballast to max. feasible draft.	1,657,648 263,545	420,319 66,825	20.2	1.8	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	1.c. PL/CBT, 30% coverage, empty to extent feasible.	1,657,648 263,545	420,319 66,825	20.2	0.4	11,279,000	12,143,000
264,000 dwt, MARPOL '73 ..	2.a. HBL all tanks	1,134,047 180,299	932,159 148,201	45.1	0	11,279,000	12,143,000
264,000 dwt, MARPOL '73 ..	2.b. HBL, equivalent to Regulation 13G.	1,495,725 237,801	570,481 90,699	27.6	0	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	3. PL/Spaces as in 1.c	1,425,814 226,686	652,153 103,684	31.4	0.4	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	4. Retrofit double bottom ...	1,929,181 306,715	148,786 23,655	7.2	26.6	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	5. Retrofit double sides	1,921,087 305,428	156,880 24,942	7.5	39.9	11,279,000	12,143,000
31,000 dwt, Tank Barge	6. PL/Spaces (install bulkheads).	97,015 15,424	6,483 1,031	6.3	1.4	(*)	(*)
31,000 dwt, Tank Barge	7. PL/Spaces using existing cargo tanks.	68,281 10,856	35,217 5,599	34	0.2	(*)	(*)

*Opportunity costs were not calculated for tank barges. However, if the opportunity costs for tank vessels were extrapolated to apply to tank barges and required shipyard time is accounted for, tank barge opportunity costs would range from $2,506,000 to $5,859,000.

[FR Doc. 96–3685 Filed 2–20–96; 8:45 am]
BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–59–1–6928b; FRL–5400–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted on August 12, 1994, by the State of Florida for the purpose of including the Small Business Stationary Source Technical and Environmental Compliance Assistance Program into the Florida Administrative Code, Chapters 17–202.100 through 17.202.400. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A

detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 22, 1996.

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

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

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

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

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

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

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

Dated: December 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–3791 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MI37–01–6713b; FRL–5422–6]

Approval and Promulgation of State Implementation Plan; Michigan; Site-Specific SIP Revision for the Enamalum Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposed to approve a revision to the Michigan State Implementation Plan (SIP) for ozone that was submitted on August 26, 1994. This revision is a site-specific SIP revision that determines the appropriate reasonably available control technology (RACT) level for volatile organic compound (VOC) emissions from the Enamalum Corporation Novi, Michigan facility. This proposed approval of the site-specific SIP revision, submitted by the State of Michigan, would allow for a limit higher than that found in the control technology guidance (CTG) document for this source category. This proposed approval is based upon the argument that the Enamalum Corporation facility cannot afford the controls normally required by the State's RACT rule. In the final rules of this Federal Register, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received by March 22, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano at (312) 353–6960.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Rule which is located in the Rules section of this Federal Register. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 96–3792 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 186

[OPP–300397A; FRL–5348–8]

RIN 2070–AC18

Proposed Revocation of Feed Additive Regulations; Reopening and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Reopening and extension of comment period.

SUMMARY: EPA is reopening and extending until (insert date 45 days after publication in the Federal Register), the comment period for a proposed rule that was published in the Federal Register of September 21, 1995 (60 FR 49141) that proposed the revocation of certain section 409 feed additive regulations established under the Federal Food, Drug and Cosmetic Act (FFDCA) for 16 chemicals. The original comment period on the proposal closed on December 19, 1995, but because of the unavailability of certain documents in the docket, the comment period is being extended.

DATES: Written comments, identified by the document control number [OPP–300397A], must be received on or before April 8, 1996.

ADDRESSES: By mail, submit written comments to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked

confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP–300397A]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32C5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA 22202, (703)–308–8028; e-mail:nazmi.niloufar@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is reopening and extending the comment period for a proposed rule that was published in the Federal Register of September 21, 1995 (60 FR 49141) that proposed the revocation of certain section 409 feed additive regulations established under the Federal Food, Drug and Cosmetic Act (FFDCA) for 16 chemicals. The original comment period on the proposal closed on December 19, 1995, but because of the unavailability of certain documents in the docket, the comment period is being extended.

A record has been established for this rulemaking under docket number [300360A] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects in 40 CFR Part 185

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Processed foods, Reporting and recordkeeping requirements.

Dated: February 8, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–3722 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7166]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood elevations and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Camp Verde (Town) Yavapai County.	Verde River	Just downstream of State Route 260	*3,074	*3,074
			Just downstream of State Route 260	*3,076	*3,075
			Just downstream of Montezuma Castle Highway.	*3,096	*3,094
			Approximately 1,000 feet upstream of Interstate Highway 17.	*3,105	*3,107
			Approximately 2.62 miles upstream of Interstate Highway 17.	*3,131	*3,132
			Cherry Creek At confluence with Verde River.	None	*3,164
			At State Route 279	None	*3,252
			At corporate limits (approximately 3,400 feet upstream of State Route 279).	None	*3,314
		Lucky Canyon Wash	At confluence with Verde River	None	*3,060
			At Salt Mine Road	None	*3,100
			Approximately 930 feet upstream of Salt Mine Road.	None	*3,126
		Cooper Canyon Wash	At confluence with Verde River	*None	*3,063
			At Salt Mine Road	None	*3,142
			Approximately 980 feet upstream of Salt Mine Road.	None	*3,164

Maps are available for inspection at Town Hall, 473 South Main Street, Verde, Arizona.

Send comments to The Honorable Carter Rogers, Mayor, Town of Camp Verde, P.O. Box 710, Camp Verde, Arizona 86322.

Arizona	Yavapai County (Unincorporated Areas).	Verde River	Just upstream of State Route 260	*3,076	*3,074
			Just upstream of Montezuma Castle Highway	*3,096	*3,094
			Just upstream of Interstate Highway 17	*3,105	*3,107
			Just downstream of Middle Verde Indian Reservation	*3,132	*3,132
		Chino Valley Stream—East.	At confluence with Chino Valley Stream	None	*4,732
			At Center Street	None	*4,760
			Approximately 1.55 miles upstream of confluence with Chino Valley Stream.	None	*4,796
			Approximately 1.79 miles upstream of confluence with Chino Valley Stream.	None	*4,809
			Approximately 3.69 miles upstream of confluence with Chino Valley Stream.	None	*4,906
		Miller Creek	Approximately 3,400 feet downstream of U.S. Route 89.	*4,458	*4,458
			Approximately 2,350 feet downstream of U.S. Route 89.	*4,467	*4,463
			Approximately 1300 feet downstream of U.S. Route 89.	*4,470	*4,468
			Approximately 300 feet downstream of U.S. Route 89.	*4,474	*4,473
			Approximately 600 feet upstream of U.S. Route 89.	*4,478	*4,478

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,250 feet upstream of U.S. Route 89.	*4,482	*4,483
			Approximately 2,250 feet upstream of U.S. Route 89.	*4,488	*4,488
			Approximately 3,100 feet upstream of U.S. Route 89.	*4,493	*4,493
			Approximately 3,800 feet upstream of U.S. Route 89.	*4,498	*4,498
			Approximately 4,350 feet upstream of U.S. Route 89.	*4,503	*4,503
			Approximately 4,900 feet upstream of U.S. Route 89.	*4,508	*4,508
			Approximately 5,600 feet upstream of U.S. Route 89.	*4,513	*4,513
			Approximately 6,400 feet upstream of U.S. Route 89.	*4,519	*4,519
			At corporate limits (upstream of City of Prescott).	None	*5,478
			At Idlywild Drive	None	*5,517
			At Pine Drive	None	*5,612
			Approximately 2,500 feet upstream of Pine Drive (at limit of detailed study).	None	*5,672
		Cherry Creek	At corporate limits	None	*3,314
			Approximately 200 feet upstream of corporate limits (at limit of detailed study).	None	*3,318
		Texas Gulch Main Stem	At confluence with Aqua Fria River	None	*4,490
			At Quarter Horse Lane	None	*4,536
			At confluence of Texas Gulch West Branch.	None	*4,568
		Texas Gulch West Branch	At confluence with Texas Gluch Main Stem.	None	*4,568
			Approximately 0.5 mile upstream of confluence with Texas Gulch Main Stem.	None	*4,600
			Approximately 1.20 mile upstream of confluence with Texas Gulch Main Stem.	None	*4,660
			Approximately 1.58 mile upstream of confluence with Texas Gulch Main Stem.	None	*4,700
		Zalesky Wash Main Stem	Approximately 0.04 mile upstream of confluence with Verde River.	None	*3,259
			Approximately 0.86 mile upstream of confluence with Verde River.	None	*3,293
		Robert Wash	At U.S. Route 89	None	*4,394
			Approximately 0.25 mile upstream of U.S. Route 89.	None	*4,398
		Telephone Tank Wash	At confluence with Green Wash	None	*4,394
			At U.S. Highway 89	None	*4,404
			Approximately 0.88 mile upstream of confluence with Green Wash.	None	*4,434
		Telephone Tank Wash Breakout.	At confluence with Green Wash	None	*4,388
			At confluence of Robert Wash	None	*4,394
			At divergence from Telephone Tank Wash.	None	*4,430
		J. W. Draw	At confluence with Green Wash	None	*4,394
			At Bayberry Drive	None	*4,412
			At Naples Street	None	*4,462
			Approximately 0.41 mile upstream of Naples Street.	None	*4,488
		Green Wash	At confluence with Big Chino Wash	None	*4,364
			At Big Chino Road	None	*4,388
			Just upstream of Grand Canyon Road	None	*4,398
			At Aspen Drive	None	*4,460
			Approximately 0.36 mile upstream of Enid Drive.	None	*4,504
		Dry Well Wash	At confluence with Clayton Canyon Wash	None	*4,420
			At Patricia Road	None	*4,502
			At Barbara Road	None	*4,598
			Approximately 500 feet upstream of Barbara Road.	None	*4,608

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Clayton Canyon Wash	Approximately 0.08 mile upstream of confluence with Big Chino Wash.	None	*4,376
		.....	.....	None	*
			Just downstream of Clayton Canyon Dam	None	*4,480
			Just upstream of Clayton Canyon Dam ...	None	*4,500
			At Barbara Road	None	*4,520
			Approximately 320 feet upstream of Barbara Road.	None	*4,525
		Timon Wash	Approximately 0.50 mile upstream of confluence with Big Chino Wash.	None	*4,395
			At Ahonen Road	None	*4,438
			At Barbara Road	None	*4,524
			Approximately 320 feet upstream of Barbara Road.	None	*4,528
		Model Creek	Just upstream of U.S. Route 89	*4,453	*4,460
			Approximately 1,000 feet upstream of U.S. Route 89.	*4,459	*4,461
			Approximately 2,000 feet upstream of U.S. Route 89.	*4,463	*4,464
			Approximately 3,000 feet upstream of U.S. Route 89.	*4,468	**4,467
			Approximately 4,000 feet upstream of U.S. Route 89.	*4,474	*4,473
			Approximately 4,400 feet upstream of U.S. Route 89.	*4,476	*4,476
		West Fork Miller Creek	Approximately 500 feet upstream of confluence with Model Creek.	None	*4,460
			Approximately 1,500 feet upstream of confluence with Model Creek.	None	*4,463
			Approximately 2,500 feet upstream of confluence with Model Creek.	None	*4,465
			Approximately 3,500 feet upstream of confluence with Model Creek.	None	*4,470
			Approximately 4,500 feet upstream of confluence with Model Creek.	None	*4,474
			Approximately 4,800 feet upstream of confluence with Model Creek.	None	*4,475

Maps are available for inspection at the Yavapai County Flood Control District, 500 South Marina Street, Prescott, Arizona.

Send comments to The Honorable Carlton Camp, Chairman, Yavapai County Board of Supervisors, 255 East Gurley Street, Prescott, Arizona 86301.

Louisiana	Alexandria (City) Rapides Parish.	Bayou Rapides	At Bolton Avenue (Route 1)	*79	*80
			Approximately 3,100 feet downstream of Plantation Road.	*79	*81
		Irish Ditch No. 2	At Airbase Road	*81	*82
			At confluence of Big Bayou	*82	*83
		Big Bayou	Approximately 5,200 feet upstream of confluence with Irish Ditch No. 2.	*82	*83
		Bayou Rapides Diversion Channel.	At Dixie Lane Extended	*71	*71
			Just downstream of Bayou Rapides Road	*73	*74

Maps are available for inspection at the Utility Building, 1546 Jackson Street, Second Floor, Alexandria, Louisiana.

Send comments to The Honorable Edward Randolph, Jr., Mayor, City of Alexandria, P.O. Box 71, Alexandria, Louisiana 71301.

Louisiana	Rapides Parish (Unincorporated Areas).	Chatlin Lake Canal	At Chaneyville-Echo Road	None	*58
			Just upstream of State Highway 457	*None	*63
			Approximately 2,200 feet downstream of State Highway 3170.	None	*67
			Approximately 250 feet downstream of Sugar House Road.	*72	*72
		Bayou Boeuf	At Interstate Highway 49	None	*71
			Approximately 1,000 feet downstream of State Highway 488.	None	*74
			Approximately 1,600 feet downstream of Massina Road.	None	*80

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Bayou Rapides Diversion Channel.	At confluence with Bayou Boeuf	None	*71
			At State Highway 488	*71	*72
			Approximately 7,000 feet downstream of State Highway 28.	*72	*73
		Bayou Rapides	At U.S. Highway 1 (Bolton Avenue)	*79	*80
			At confluence of Irish Ditch No. 2	*79	*81
			Approximately 2,500 feet downstream of Robinson Road.	*81	*82
			Approximately 5,000 feet downstream of Cooper Road.	None	*83
		Irish Ditch No. 2	At State Highway 498	*79	*81
			Approximately 500 feet downstream of Chapel Road.	*81	*82
			Approximately 250 feet downstream of Harold Miles Park Road.	*82	*83
		Big Bayou	Approximately 2,500 feet downstream of Jimmy Brown Road.	None	*83
			At confluence of Saline Bayou and Bayou Bertrand.	None	*83
		Flagon Bayou	Just downstream of Kansas City Southern Railroad.	*141	*141
			Approximately 740 feet upstream of Hooper Road.	*150	*146
			Approximately 4,200 feet upstream of Hooper Road at the Grant-Rapides Parish Lane.	*154	*151
		Big Creek	At State Highway 115	None	*62
		Cainey Creek	At State Highway 1206	None	*62

Maps are available for inspection at the Planning Commission, 5610 East Coliseum Boulevar, Alexandria, Louisiana.

Send comments to The Honorable Myron Lawson, President, Rapides Parish Police Jury, Rapides Parish Courthouse, 701 Murray Street, Alexandria, Louisiana 71301.

New Mexico	Bernalillo County and Incorporated Areas.	Rio Grande	Approximately 1,000 feet downstream of Interstate 25.	*4,902	*4,902
			Approximately 3,000 feet upstream of Interstate 25.	*4,905	*4,906
			At confluence with the South Diversion Channel.	*4,924	*4,924
		Rio Grande East Overbank.	Approximately 1,300 feet downstream of Interstate 25.	*4,900	*4,900
			Just downstream of Interstate 25	*4,900	*4,903
			Approximately 3,500 feet upstream of Interstate 25.	*4,904	*4,905
			Approximately 20,400 feet upstream of Interstate 25.	*4,922	*4,922
		Arroyo A–B	Approximately 150 feet nort of Amalia Road.	None	*4,970
			Approximately 550 feet north of Amalia Road.	None	*4,980
			Just upstream of Sage Road	None	*4,995
			At ponding area west of the Arenal Canal	None	*4,951
			At ponding area northwest of the intersection of Sage Road and Coors Boulevard.	None	*5,001
			At ponding area north of Tower Road and west of Coors Boulevard.	None	*5,029
		Arroyo A–C	Approximately 1,140 feet downstream of Gonzales Road.	None	*5,006
			Just upstream of Gonzales Road	None	*5,008
			Approximately 630 feet upstream of the intersection of Forsythe Road and Corregidor Place.	None	*5,012
			At ponding area just upstream of Old Coors Road.	*5,013	*5,012
		Arroyo B–A	Approximately 100 feet upstream of Unser Boulevard.	#2	*5,087
			Just upstream of 86th Street	None	*5,115

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,000 feet upstream of 86th Street (at limit of detailed study).	None	*5,133
			At ponding area west of 94th Street and south of Central Avenue.	None	*5,169
		Arroyo B–B	Approximately 650 feet downstream of Unser Boulevard.	#1	*5,081
			Just upstream of 86th Street	#1	*5,105
			Approximately 400 feet upstream of 90th Street.	#1	*5,135
			Approximately 1,900 feet upstream of 90th Street (at limit of detailed study).	#1	*5,171
			Shallow flooding between Stinson Street and 300 feet upstream of 75th Street.	None	*5,080
		Arroyo B–C	Just upstream of Unser Boulevard	#1	*5,079
			Approximately 80 feet downstream of 86th Street.	#1	*5,093
			Approximately 240 feet downstream of 94th Street.	#1	*5,120
			Approximately 1,050 feet upstream of 94th Street (at limit of detailed study).	#1	*5,140
			Shallow flooding between Unser Boulevard and Abeyta Road.	*5,076	#1
		Ponding Area 18		*5,010	*5,009
		Ponding Area	Along Trujillo Road approximately 500 feet east of Bataan Drive.	*5,011	*5,009
		Ponding Area	Along Dennison Road approximately 500 feet east of Bataan Drive.	*5,011	*5,009
		Ponding Area	North of Eucariz Avenue approximately 500 feet east of Bataan Drive.	None	*5,008
		Ponding Area	Along Yerba Road south of Eucariz Avenue.	None	*5,002
		Ponding Area	Between Coors Boulevard and Corona Drive and between Redlands Road and Pheasant Avenue.	*4,999	*5,100

Maps are available for inspection at One Civic Plaza NW, Albuquerque, New Mexico.

Send comments regarding Bernalillo County to The Honorable Albert Valdez, Chairman, Bernalillo County Board of Commissioners, One Civic Plaza NW, Albuquerque, New Mexico 87103.

Send comments regarding the City of Albuquerque to The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3852 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

[Docket No. FEMA–7168]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other

Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	Oneonta (City) Blount County.	Dry Creek	Approximately 0.4 mile downstream of Pocoda Drive.	None	*785
			At U.S. Route 231	None	*850
Maps available for inspection at the Oneonta City Hall, 202 Third Avenue East, Oneonta, Alabama.					
Send comments to The Honorable Danny G. Hicks, Mayor of the City of Oneonta, City Hall, 202 Third Avenue East, Oneonta, Alabama 35121.					
Florida	Monroe County (Unincorporated Areas).	Gulf of Mexico	Approximately 600 feet northwest of intersection of Evergreen Avenue and Evergreen Terrace.	*9	*13
			Approximately 370 feet northwest of intersection of Evergreen Avenue and Evergreen Terrace.	*9	*11
		Torch Ramrod Channel ..	Approximately 700 feet north of the intersection of Mariposa Road and Lesronde Drive along Lesronde Drive.	*11	*8
			Approximately 1,000 feet north of the intersection of Mariposa Road and Lesronde Drive along Lesronde Drive.	*11	*10
Maps available for inspection at the Monroe County Growth Management Building, 2798 Overseas Highway, Marathon, Florida.					
Send comments to Mr. James Roberts, Monroe County Administrator, 5100 College Road, Wing 2, Room 212, Key West, Florida 33040.					
Massachusetts ...	Nantucket (Town) Nantucket County.	Atlantic Ocean	At Great Point	*15	*10
			Approximately 0.2 mile from Great Point.	None	*7
			At the shoreline approximately 160 feet south of the intersection of Clifford Street and Nonatum Avenue.	*23	*9
			Approximately 150 feet east of the intersection of Adams Street and Nobadeer Avenue.	*10	*7
			At the southern portion of Miacomet Pond.	*7	*8
			At Hummock Pond	*8	*7
		Nantucket Sound	Head of the Harbor northern portion	*8	*7

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Nantucket Building Commissioners Office, 37 Washington Street, Nantucket, Massachusetts.					
Send comments to Mr. Arthur Desrocher, Chairman of the Town of Nantucket Board of Selectmen, 16 Broad Street, Nantucket, Massachusetts 02554.					
Michigan	Hartland (Township) Livingston County.	North Ore Creek	At Parshallville Road	None	*909
			At Fenton Road	None	*966
Maps available for inspection at the Hartland Township Office, 3191 Hartland Road, Hartland, Michigan.					
Send comments to Mr. Don Rhodes, Hartland Township Supervisor, 3191 Hartland Road, Hartland, Michigan 48353.					
New York	Geneseo (Town) Livingston County.	Jaycox Creek	At Lima Road	None	*815
			Approximately 2.79 miles upstream of Lima Road.	None	*1001
Maps available for inspection at the Geneseo Town Office, 119 Main Street, Geneseo, New York.					
Send comments to Mr. W. Harold Stewart, Supervisor of the Town of Geneseo, 119 Main Street, Geneseo, New York 14454.					
New York	Geneseo (Village) Livingston County.	Jaycox Creek	Approximately 75 feet downstream of downstream corporate limits.	None	*822
			Approximately 330 feet upstream of Seminole Avenue.	None	*867
		Genesee River	At downstream corporate limit	None	*557
			At upstream corporate limit	None	*558
Maps available for inspection at the Geneseo Village Office, 119 Main Street, Geneseo, New York.					
Send comments to The Honorable Richard B. Hatheway, Mayor of the Village of Geneseo, Village Office, 119 Main Street, Geneseo, New York 14454.					
New York	Hague (Town) Warren County.	Lake George	Entire shoreline within community	None	*321
Maps available for inspection at the Town of Hague Community Center, Route 8, Hague, New York.					
Send comments to Mr. Daniel Belden, Supervisor of the Town of Hague, P.O. Box 509, Hague, New York 12836.					
New York	Lake George (Village) Warren County.	Lake George	Entire shoreline within community	None	*321
Maps available for inspection at the Village of Lake George Administrative Building, Amherst Street, Lake George, New York.					
Send comments to The Honorable Robert M. Blais, Mayor of the Village of Lake George, P.O. Box 791, Amherst Street, Lake George, New York 12845.					
New York	Lewis (Town) Lewis County.	East Branch Mohawk River.	Approximately 0.47 mile downstream of State Route 26.	None	*1457
			Approximately 0.74 mile upstream of State Route 26.	None	*1499
Maps available for inspection at the Lewis Town Clerk's Office, 791 Main Street, West Leyden, New York.					
Send comments to Mr. Dale Rybicky, Lewis Town Supervisor, P.O. Box 228, West Leyden, New York 13489.					
Ohio	Montgomery County (Unincorporated Areas).	Lilly Creek	Approximately 100 feet downstream of downstream corporate limits.	*778	*780
			At upstream corporate limits	*785	*786
Maps available for inspection at the County Planning Commission, 451 North Third Street, Dayton, Ohio.					
Send comments to Ms. Vicki Pegg, President of the Board of County Commissioners, 451 North Third Street, Dayton, Ohio 45422–1260.					
Ohio	Riverside (City) Montgomery County.	Lilly Creek	Approximately 200 feet upstream of Byesville Boulevard.	*770	*768
			Approximately 132 feet downstream of Harshman Road.	*786	*787
		Shallow Ponding Area (Zone AH).	Approximately 700 feet northwest of the intersection of Byesville Boulevard and Fairfax Avenue.	*767	*766
			Approximately 500 feet north of intersection of Glendean Avenue and Springfield Avenue.	None	*766

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Shallow Flooding Area (Zone AO).	Just south of intersection of Springfield Pike and Fairfax Avenue.	*768	*767
			North side of intersection of Fairfax Avenue and Derwent Drive.	*772	*767
			South side of intersection of Fairfax Avenue and Derwent Drive.	*772	#2
			North side of intersection of Fairpark Avenue and Fairfax Avenue.	*773	#2
Maps available for inspection at the City Hall, 1791 Harshman Road, Riverside, Ohio.					
Send comments to The Honorable Kenneth Curp, Mayor of the City of Riverside, 1791 Harshman Road, Riverside, Ohio 45424.					
Pennsylvania	Conewago (Township) Adams County.	Slagle Run	At downstream corporate limits	None	*522
			At county boundary	None	*539
Maps available for inspection at the Conewago Township Building, 350 Third Street, Hanover, Pennsylvania.					
Send comments to Conewago Township Building, 350 Third Street, Hanover, Pennsylvania 17331.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3853 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

[Docket No. FEMA–7164]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Illinois	Lake-In-The-Hills (Village) McHenry County.	Woods Creek	At downstream corporate limits approximately 130 feet downstream of downstream crossing of Algonquin Road.	*782	*783
			At upstream corporate limits approximately 130 feet upstream of upstream crossing of Huntley Algonquin Road.	None	*851
		Kishwaukee Creek	At State Route 47	None	*859
			Approximately 0.63 mile upstream of Crystal Lake Road.	None	*872
Maps available for inspection at the Village Hall, 1115 Crystal Lake Road, Lake-In-The-Hills, Illinois.					
Send comments to Ms. Christine Thornrose, President of the Village of Lake-In-The-Hills, Village Hall, 1115 Crystal Lake Road, Lake-In-The-Hills, Illinois 60102–3398.					
Indiana	Brownstown (Town) Jackson County.	East Fork White River	Approximately 0.4 mile downstream of Ewing Road.	None	*542
			Approximately 0.5 mile upstream of Ewing Road.	None	*544
Maps available for inspection at the Town Hall, c/o Pat Forgey, 200 West Walnut Street, Brownstown, Indiana.					
Send comments to Mr. Robert Millman, President of the Town of Brownstown Council, Town Hall, 200 West Walnut Street Brownstown, Indiana 47220.					
Indiana	Scottsburg (City) Scott County	Iola Lake	Entire shoreline	None	*552
		Pigeon Roost Creek	At confluence with Stucker Ditch	None	*544
			Approximately 0.1 mile upstream of State Route 56.	None	*547
		Scottsburg Drain	At confluence with Pigeon Roose Creek	None	*547
			At U.S. 31 downstream side	None	*570
		Iola Run	Approximately 0.5 mile upstream of confluence with Stucker Ditch.	None	*543
			At Conrail Railroad	None	*543
		Stucker Ditch	Approximately 0.6 mile upstream of confluence with Muscatatuck River.	None	*544
			Approximately 0.65 mile upstream of confluence with Muscatatuck River.	None	*544
Maps available for inspection at the Scottsburg City Hall, 2 East McClain Avenue, Scottsburg, Indiana.					
Send comments to The Honorable William Graham, Mayor of the City of Scottsburg, 2 East McClain Avenue, Scottsburg, Indiana 47170.					
Maine	Bethel (Town) Oxford County.	Androscoggin River	Approximately 1.6 miles downstream of confluence with Otter Brook.	*628	*627
			At corporate limits approximately 700 feet upstream of confluence with Pleasant River.	*665	*660
		Sunday River	At confluence with Androscoggin River	*650	*644
			Approximately 1.7 miles upstream of U.S. Route 2.	*650	*649
		Alder River	At confluence with Androscoggin River	*652	*648
			Approximately 1.4 miles downstream of upstream crossing of Grand Trunk Railroad.	*652	*651
		Mill Brook	At confluence with Androscoggin River	*653	*650
			Approximately 1,900 feet upstream of State Route 5.	*653	*652
		Kendall Brook	At confluence with Alder River	*652	*648
			Approximately 2.5 miles upstream of confluence with Alder River.	*652	*651
		Twitchell Brook	At confluence with Androscoggin River	*652	*647
			Approximately 0.4 mile upstream of U.S. Route 2.	*652	*651
		Standing Brook	At confluence with Alder River	*652	*648
			Approximately 160 feet downstream of Grand Trunk Railroad.	*652	*650

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Bethel Town Hall, 19 Main Street, Bethel, Maines.					
Send comments to Mr. Robert Chadbourne, Chairman of the Board of Selectmen for the Town of Bethel, P.O. Box 108, Bethel, Maine 04217.					
Massachusetts	Edgartown (Town) Dukes County.	Atlantic Ocean	Approximately 620 feet south of the intersection of Herring Creek Road and Atlantic Drive.	*15	*10
			Approximately 2,000 feet south of the end of Pohoganot Road where it intersects with an Access Road.	*11	*9
		Nantucket Sound	Approximately 1,600 feet east of the end of Wasque Road in the vicinity of Wasque Point.	*14	*13
			At the intersection of Dyke Road and the western-most Jeep Trail.	*9	*10
Maps available for inspection at the Edgartown Town Hall, 70 Main Street, 3rd Floor, Edgartown, Massachusetts.					
Send comments to Mr. Fred B. Morgan, Jr., Chairman of the Edgartown Board of Selectment, P.O. Box 5158, Edgartown, Massachusetts 02539.					
Massachusetts	Gay Head (Town) Dukes County.	Atlantic Ocean	Approximately 0.7 mile west of the intersection of Black Brook and Moshup Trail.	None	*9
			Approximately 1,400 feet southwest of the intersection of Moshup Trail and South Road.	*15	*11
		Menemsha Bight	Approximately 600 feet north of the intersection of Lobsterville Road and West Payson Road.	*9	*12
			Approximately 500 feet north of the intersecton of Lobsterville Road and West Payson Road.	None	*10
		Vineyard Sound	Approximately 0.4 mile north of the intersection of Lighthouse Road and Moshup Trail.	*12	*11
Maps available for inspection at the Office of the Building Inspector, 65 State Road, Gay Head, Massachusetts.					
Send comments to Mr. Russell Smith, Chairman of the Gay Head Board of Selectmen, 65 State Road, Gay Head, Massachusetts 02535.					
Massachusetts	West Tisbury (Town) Dukes County.	Atlantic Ocean	Approximately 700 feet south of the end of Butlers Pond Road.	*14	*10
			Approximately 650 feet south of the intersection of Jennie Athearn Road and Little Homer Pond Road.	*10	*9
Maps available for inspection at the West Tisbury Town Hall, 1059 State Street, West Tisbury, Massachusetts.					
Send comments to Ms. Cynthia E. Mitchell, Chairman of the West Tisbury Board of Selectmen, P.O. Box 278, West Tisbury, Massachusetts 02575.					
Michigan	Torch Lake (Township) Antrim County.	Torch Lake	Entire shoreline within community	None	*591
		Grand Traverse Bay	Entire shoreline within community	None	*585
Maps available for inspection at the Torch Lake Township Hall, 5085 U.S. 31 North Eastport, Michigan.					
Send comments to Mr. Kim Schmidt, Supervisor of the Township of Torch Lake, P.O. Box 477, Eastport Michigan 49627.					
Minnesota	Cannon Falls (City) Goodhue County.	Cannon River	Approximately 0.7 mile upstream from the downstream corporate limits.	*782	*781
			Approximately 0.3 mile upstream of 8th Street (State Route 17).	*800	*801
		Little Cannon River	Approximately 100 feet upstream of Sewer Crossing.	*794	*795
			At upstream corporate limits	*821	*820

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Hall, 306 West Mill Street, Cannon Falls, Minnesota.					
Send comments to The Honorable Leon Hanson, Mayor of the City of Cannon Falls, City Hall, 306 West Mill Street, Cannon Falls, Minnesota 55009.					
Mississippi	Canton (City) Madison County.	Bear Creek	Approximately 200 feet upstream of Fulton Street (State Highway 22).	*221	*219
			Approximately 340 feet upstream of Illinois Central Railroad.	*222	*221
Maps available for inspection at the City Hall, 226 East Peace Street, Canton, Mississippi.					
Send comments to The Honorable Alice Scott, Mayor of the City of Canton, 226 East Peace Street, Canton, Mississippi 39046.					
Mississippi	Madison County (Unincorporated Areas).	Bear Creek	At State Highway 22	*220	*219
			At Illinois Central Railroad	*222	*221
Maps available for inspection at the Chancery Administration Building, 146 West Center Street, Canton, Mississippi.					
Send comments to Mr. David Richardson, President of the Madison County Board of Commissioners, P.O. Box 404, Canton, Mississippi 39046.					
New York	Dresden (Town) Washington County.	Lake George	Entire shoreline within community	None	*321
Maps available for inspection at the Town Hall, Dresden Center Road, RD 1, Whitehall, New York.					
Send comments to Mr. Robert Banks, Dresden Town Supervisor, c/o Paul Novelty Company, 66 Main Street, Whitehall, New York 12887.					
New York	Elmira (Town) Chemung County.	Newtown Creek	Approximately 0.5 mile downstream of confluence of Diven Creek.	*863	*861
			Approximately 0.51 mile upstream of confluence of Diven Creek.	*863	*862
		McCann's Tributary	At confluence with Diven Creek	*863	*861
			Approximately 825 feet upstream of McCann's Boulevard.	*863	*862
Maps available for inspection at the Elmira Town Hall, 1255 West Water Street, Elmira, New York.					
Send comments to Mr. William G. Yungstrom, Elmira Town Supervisor, 1255 West Water Street, Elmira, New York 14905.					
New York	Elmira Heights (Village) Chemung County.	McCann's Tributary	At McCann's Boulevard	*863	*861
			Approximately 1,000 feet upstream of McCann's Boulevard.	*863	*862
Maps available for inspection at the Elmira Heights Village Hall, 215 Elmwood Avenue, Elmira Heights, New York.					
Send comments to The Honorable Allen L. Rice, Mayor of the Village of Elmira Heights, 215 Elmwood Avenue, Elmira Heights, New York 14903.					
New York	Gorham (Town) Ontario County.	Canandaigua Lake	At shoreline west of Orchard Rest Road	*693	*692
			At shoreline west of intersection of East Lake and Townline Road.	*697	*692
Maps available for inspection at the Gorham Town Hall, 4736 South Elm Street, Gorham, New York.					
Send comments to Ms. Margaret Atkins, Supervisor of the Town of Gorham, Gorham Town Hall, P.O. Box 224, Gorham, New York 14461.					
New York	Hillburn (Village) Rockland County.	Ramapo River	Approximately 550 feet downstream of the downstream crossing of the Conrail.	*276	*277
			At upstream corporate limits	*300	*299
Maps available for inspection at the Village Hall, 31 Mountain Avenue, Hillburn, New York.					
Send comments to The Honorable Brian Miele, Mayor of the Village of Hillburn, 31 Mountain Avenue, Hillburn, New York 10931.					
New York	Horseheads (Town) Chemung County.	Beaver Brook	At confluence with Newtown Creek	*875	*877
			Approximately 1,035 feet upstream of East Mills Street.	*886	*885
		North Branch Newtown Creek.	At confluence with Newtown Creek	*932	*929

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 325 feet upstream of confluence with Newtown Creek.	*933	*932
Maps available for inspection at the Horseheads Town Hall, 150 Wygant Road, Horseheads, New York.					
Send comments to Mr. Robert G. Chapman, Horseheads Town Supervisor, 150 Wygant Road, Horseheads, New York 14845.					
New York	Horseheads (Village) Chemung County.	Newtown Creek	Approximately 750 feet downstream of Route 14/17.	*876	*877
			Approximately 535 feet upstream of East Franklin Street.	*893	*891
Maps available for inspection at the Horseheads Village Hall, 202 South Main Street, Horseheads, New York.					
Send comments to The Honorable Patricia Gross, Mayor of the Village of Horseheads, 202 South Main Street, Horseheads, New York 14845.					
New York	Owego (Town) Tioga County.	Susquehanna River	Approximately 1,100 feet downstream of confluence of Apalachin Creek.	*824	*825
			Approximately 2.2 miles upstream of confluence of Apalachin Creek.	*827	*828
		Apalachin Creek	At the confluence with the Susquehanna River.	*824	*825
			Approximately 0.66 mile upstream of the confluence with the Susquehanna River.	*824	*825
Maps available for inspection at the Town Hall, 2354 State Route 434, Apalachan, New York.					
Send comments to Mr. Thomas Doty, Owego Town Supervisor, Owego Town Hall, P.O. Box 248, Owego, New York 13827.					
North Carolina	Williamston (Town) Martin County.	Roanoke River	Approximately 0.3 mile downstream of U.S. Route 13.	None	*12
			Approximately 0.4 mile upstream of U.S. Route 13.	None	*12
Maps available for inspection at the Town Hall, 100 East Main Street, Williamston, North Carolina.					
Send comments to Mr. Donald W. Christopher, Town Administrator of Williamston, P.O. Box 506, Williamston, North Carolina 27892.					
Ohio	Dayton (City) Montgomery County.	Lilly Creek	Approximately 0.15 mile upstream of confluence with Mad River.	None	*761
			Approximately 0.60 mile upstream of Byesville Boulevard.	None	*781
		Shallow Ponding Area (Zone AH).	Just Southeast of Springfield Pike; approximately 900 feet northeast of unnamed road.	*770	*767
			Approximately 200 feet northwest of Springfield Pike.	*767	*766
Maps available for inspection at the Dayton City Hall, 101 West Third Street, Dayton, Ohio.					
Send comments to The Honorable Michael R. Turner, Mayor of the City of Dayton, 101 West Third Street, Dayton, Ohio 45401–0022.					
Pennsylvania	Avondale (Borough) Chester County.	East Branch White Clay Creek.	Approximately 750 feet downstream of confluence of Indian Run.	*268	*270
			Approximately 550 feet upstream of confluence of Indian Run.	*270	*271
		Trout Run	At confluence with East Branch White Clay Creek.	*269	*270
			Approximately 670 feet above confluence with East Branch White Clay Creek.	*269	*270
		Indian Run	At confluence with East Branch White Clay Creek.	*270	*271
			Approximately 475 feet upstream of Pomeroy Street.	None	*283
Maps available for inspection at the Avondale Borough Hall, Pomeroy Avenue, Avondale, Pennyslvania.					
Send comments to Ms. Janice Almquist, Avondale Borough Consultant, P.O. Box 247, Avondale, Pennsylvania 19311.					
Pennsylvania	East Whiteland (Township) Chester County.	Valley Creek No. 2	At its downstream corporate limit	None	*367

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 200 feet upstream of its downstream corporate limit.	None	*368

Maps available for inspection at the East Whiteland Township Building, 209 Conestoga Road, Frazer, Pennsylvania.

Send comments to Mr. J. Donald Reimenschneider, East Whiteland Township Manager, 209 Conestoga Road, Frazer, Pennsylvania 19355–1699.

Pennsylvania	Franklin (Township) Chester County.	East Branch White Clay Creek.	Approximately 0.7 mile downstream of Newgarden Station Road.	None	*255
			Approximately 0.2 mile downstream of Newgarden Station Road.	None	*259

Maps available for inspection at the Franklin Township Building, Appleton Road, Kemblesville, Pennsylvania.

Send comments to Mr. Karl Mehn, Township of Franklin Zoning Officer, P.O. Box 118, Kemblesville, Pennsylvania 19347.

Pennsylvania	London Grove (Township) Chester County.	East Branch White Clay Creek.	Approximately 0.2 mile downstream of Newgarden Station Road.	None	*259
			At State Road 926	None	*504

Maps available for inspection at the London Grove Township Building, 3 London Way, Avondale, Pennsylvania.

Send comments to Mr. Lewis C. Ross, Chairman of the Township of London Grove Board of Supervisors, 3 London Way, Avondale, Pennsylvania 19311.

Pennsylvania	New Garden (Township) Chester County.	East Branch White Clay Creek.	Approximately 0.4 mile upstream of confluence with Egypt Run.	None	*253
			Approximately 0.9 mile upstream of confluence with Egypt Run.	None	*255

Maps available for inspection at the New Garden Township Building, 8934 Gap-Newport Pike, Avondale, Pennsylvania.

Send comments to Mr. Robert N. Taylor, Chairman of the Township of New Garden Board of Supervisors, 8934 Gap-Newport Pike, Avondale, Pennsylvania 19311.

Pennsylvania	Schuylkill Haven (Borough) Schuylkill County.	Schuylkill River	Approximately 1.7 mile downstream of confluence of Long Run.	None	*501
			Approximately 550 feet upstream of confluence of West Branch Schuylkill River.	*525	*526
		Long Run	At confluence with Schuylkill River	*509	*511
			Approximately 1,325 feet upstream of Stoyers Dam.	*510	*511

Maps available for inspection at the Schuylkill Haven Borough Hall, 12 West Main Street, Schuylkill Haven, Pennsylvania.

Send comments to Mr. Douglas Satterfield, Schuylkill Haven Borough Manager, 12 West Main Street, Schuylkill Haven, Pennsylvania 17972.

Pennsylvania	Shirley (Township) Huntingdon County.	Aughwick Creek	Approximately 1,090 feet upstream of U.S. Route 522.	*570	*571
			Approximately 1,160 feet upstream of U.S. Route 522.	*570	*571

Maps available for inspection at the Shirley Township Building, Shirleysburg, Pennsylvania.

Send comments to Mr. Douglas Myers, Chairman of the Shirley Township Board of Supervisors, RR1, Box 110, Shirleysburg, Pennsylvania 17260–9734.

Pennsylvania	West Marlborough (Township) Chester County.	Indian Run	At State Road 926	None	*504
			Approximately 350 feet upstream of Mosquito Road.	None	*509

Maps available for inspection at the Township Building, Doe Run Road, Route 82, Village of Doe Run, Pennsylvania.

Send comments to Mr. Charles Brosius, Chairman of the Township of West Marlborough Board of Supervisors, 233 Wilson Road, West Grove, Pennsylvania 19390.

Tennessee	Carter County (Unincorporated Areas).	Sinking Creek	Approximately 1,575 feet downstream of Sinking Creek Road.	None	*1501

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 60 feet upstream of county boundary.	None	*1553
Maps available for inspection at the Carter County Courthouse, 801 Elk Avenue, Elizabethton, Tennessee.					
Send comments to Mr. Truman Clark, Carter County Executive, Carter County Courthouse, 801 Elk Avenue, Elizabethton, Tennessee 37653.					
Tennessee	Watauga (City) Carter County.	Watauga River	Just downstream of U.S. Route 321	None	*1414
			Approximately 1.3 miles downstream of Smalling Road.	None	*1429
Maps available for inspection at the Watauga City Hall, 104 West Avenue, Watauga, Tennessee.					
Send comments to Ms. Hattie Skeans, Watauga City Acting Manager, P.O. Box 68, Watauga, Tennessee 37694.					
West Virginia	Boone County (Unincorporated Areas).	Little Coal River	Approximately 1.26 miles downstream of confluence of Big Spinnacle Creek.	*161	*160
			Approximately 0.2 mile upstream of State Route 17.	*702	*701
		Spruce Fork	At the confluence with Little Coal River	*702	701
		Pond Fork	At the confluence with Little Coal River	*702	*701
Maps available for inspection at the Office of the Emergency Services Director, Avenue C, Madison, West Virginia.					
Send comments to Mr. Gordon Eversole, President of the Boone County Commission, 200 State Street, Madison, West Virginia 25130.					
West Virginia	Danville (Town) Boone County.	Little Coal River	Approximately 100 feet upstream of U.S. Route 119.	*694	*692
			Approximately 0.36 mile downstream of the confluence of Hopkins Branch.	*697	*695
Maps available for inspection at the Danville City Hall, Park Avenue, Danville, West Virginia.					
Send comments to The Honorable Mark McClure, Mayor of the Town of Danville, P.O. Box 217, Danville, West Virginia 25053.					
West Virginia	Madison (City) Boone County.	Little Coal River	Approximately 0.36 mile downstream of the confluence of Hopkins Branch.	*697	*695
			Approximately 0.2 mile upstream of State Route 17.	*702	*701
		Spruce Fork	At the confluence with Little Coal River	*702	*701
			Approximately 32.5 feet upstream of confluence with Little Coal River.	*702	*701
		Pond Fork	At the confluence with Little Coal River	*702	*701
			At upstream side of CSX Transportation	*702	*701
Maps available for inspection at the Madison City Hall, 261 Washington Avenue, Madison, West Virginia.					
Send comments to The Honorable Andrew Dolan, Mayor of the City of Madison, 261 Washington Avenue, Madison, West Virginia 25130.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3854 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–21, FCC 96–59]

Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking, the Commission proposes a regulatory regime to govern the Bell operating companies (BOCs) provision of all ''out-of-region'' interstate, interexchange services (including interLATA and intraLATA services). Specifically, we consider whether the BOCs should be regulated as dominant or non-dominant carriers with respect to the provision of such out-of-region services. We tentatively conclude that, if a BOC provides out-of-region interstate, interexchange services through an affiliate that satisfies the separation requirements established in the *Competitive Carrier* proceeding, the BOC affiliate should be regulated as a non-dominant carrier. This Notice does not address BOC provision of in-region, interexchange services. These proposed rules will permit the rapid entry by the BOCs into the provision of out-of-region interstate, interexchange services while providing protection against anticompetitive conduct.

DATES: Comments must be submitted on or before March 13, 1996. Reply comments must be filed on or before March 25, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C.

20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Melissa Waksman (202) 418–0913 or Michael Pryor (202) 418–0495, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking released and adopted on February 14, 1996. (FCC 96–59). The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW., Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. The Telecommunications Act of 1996 (''1996 Act'') has just authorized the Bell Operating Companies (''BOCs'') to provide interLATA services originating outside their in-region states. Prior to enactment of the 1996 Act, the BOCs were prohibited from providing interLATA services by the terms of the Modification of Final Judgment (''MFJ''). In this Notice of Proposed Rulemaking, we propose a regulatory regime to govern the BOCs' provision of all ''out-of-region'' interstate, interexchange services (including interLATA and intraLATA services). Specifically, we consider whether the BOCs should be regulated as dominant or non-dominant carriers with respect to the provision of such out-of-region services. We tentatively conclude that, if a BOC provides out-of-region interstate, interexchange services through an affiliate that satisfies the separation requirements established in the *Competitive Carrier* proceeding, the BOC affiliate should be regulated as a non-dominant carrier. Under the terms of the 1996 Act, a BOC's provision of 800 service, private line service, or their equivalents that terminate in an in-region state of that BOC are considered in-region services even if such service originates out-of-region. This Notice does not address BOC provision of in-region, interexchange services. We further note that BOC provision to commercial mobil radio services customers, of interstate, interLATA services originating outside any of the BOC's in-region states, is included in the out-of-region services addressed in this proceeding.

II. Background

2. Between 1979 and 1985, the Commission conducted the *Competitive Carrier* proceeding, in which it examined how its regulations should be adapted to reflect and facilitate the increasing competition in telecommunications markets. In a series of orders, the Commission distinguished between carriers with market power (dominant carriers) and those without market power (non-dominant carriers). The Commission gradually relaxed its regulation of non-dominant carriers because it concluded that non-dominant carriers could not engage in conduct that may be anticompetitive or otherwise inconsistent with the public interest.

3. In its *First Report and Order*, 45 FR 76148, November 18, 1980, the Commission classified local exchange carriers (''LECs'') and AT&T as dominant carriers and concluded that these dominant carriers should be subject to the ''full panoply'' of then-existing Title II regulation. Recently, in light of increasing competition in the interstate, domestic, interexchange telecommunications market, and evidence that AT&T no longer possesses the ability to control price unilaterally, the Commission reclassified AT&T as a non-dominant carrier in that market.

4. In its *Fourth Report and Order*, 48 FR 52452, November 18, 1983, the Commission considered how it should regulate the provision of interstate, interexchange services by independent LECs. By ''independent LECs'' we refer to exchange telephone companies other than the BOCs. The Commission determined that interexchange carriers affiliated with independent LECs would be regulated as non-dominant carriers. In the *Fifth Report and Order*, 49 FR 34824, September 4, 1984, the Commission clarified that an ''affiliate'' of an independent LEC for purposes of qualifying for regulation as a non-dominant carrier is ''a carrier that is owned (in whole or part) or controlled by, or under common ownership (in whole or part) or control with, an exchange telephone company.'' The Commission went on to explain that in order to qualify for non-dominant status, the affiliate must: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with the exchange telephone company; and (3) obtain any exchange telephone company services at tariffed rates and conditions. The Commission noted that these requirements would avoid imposing excessive burdens on independent LECs. The Commission further concluded that, if an independent LEC provided interstate, interexchange services directly, rather than through an affiliate, those services would be subject to dominant carrier regulation.

5. In the *Fifth Report and Order*, the Commission also addressed the possible entry of the BOCs into interstate, interexchange services in the future:

> The BOCs currently are barred by the [Modification of Final Judgment] from providing interLATA services. * * * If this bar is lifted in the future, we would regulate the BOCs' interstate, interLATA services as dominant until we determined what degree of separation, if any, would be necessary for the BOCs or their affiliates to qualify for nondominant regulation.

6. The 1996 Act authorizes the BOCs to provide out-of-region interstate and intrastate interLATA services upon enactment. More specifically, Section 271(b)(2) of the Communications Act provides that a BOC of BOC affiliate may provide interLATA services originating outside its in-region States after the date of enactment of the 1996 Act, subject to the provisions of section 271(j). The 1996 Act does not require a BOC to obtain Commission authorization in order to begin offering out-of-region, interstate, interLATA services.

II. Analysis

7. In order to permit efficient and rapid entry by the BOCs into out-of-region interstate, interexchange services, as contemplated by the 1996 Act, we seek in this proceeding to establish promptly the regulatory framework that will govern the BOCs' provision of such services. At the same time, we also seek to ensure that sufficient regulatory safeguards are in place to prevent a BOC from gaining any unfair competitive advantage, either through unreasonably discriminatory practices or cross-subsidization, that could arise because of its ownership and control of local exchange facilities.

8. Since divestiture, the MFJ has prohibited the BOCs from entering the domestic, interstate, interLATA market. Therefore, they will enter this market in out-of-region states with little or no market share. Additionally, we have found that significant segments of the domestic, interstate, interexchange market are characterized by substantial competition. In our recent AT&T Order we found that there is significant excess capacity in this market and that there are a large number of long-distance carriers, including four nationwide,

facilities-based competitors, AT&T, MCI, Sprint, and WorldCom; dozens of regional facilities-based carriers; and several hundred smaller resale carriers. We further concluded that AT&T lacked individual market power in the overall interstate, domestic, interexchange market. These facts suggest that, upon entry into the provision of out-of-region interstate, interexchange services, BOC affiliates would not be likely to possess market power.

9. The BOCs, however, continue to control bottleneck local exchange facilities in their in-region states. The Commission has expressed concern about possible problems arising from an interexchange carrier's control over local exchange facilities. In its *First Report and Order* in the *Competitive Carrier* proceeding, the Commission stated that predivestiture AT&T's control of bottleneck facilities was ''prima facie evidence of market power requiring detailed regulatory scrutiny.'' The Commission reiterated its concern over potential cost-shifting and anticompetitive conduct by exchange telephone companies in its *Fifth Report and Order.* Because of such concerns, the Commission determined that interstate, interexchange services provided directly by independent LECs, rather than through an affiliate, should be regulated as dominant.

10. The Commission further concluded, however, that an affiliate of an independent LEC providing interstate, interexchange services would qualify as a non-dominant carrier if the affiliate were sufficiently separated from the local exchange company. The Commission specified the separation requirements that would provide some ''protection against cost-shifting and anticompetitive conduct'' by an independent LEC that could result from using its control of bottleneck facilities. The Commission concluded that the specific separation requirements would not impose excessive burdens on independent LECs and noted that those requirements were less stringent than those established in the *Second Computer Inquiry.*

11. In seeking to facilitate timely entry by the BOCs into the provision of out-of-region interstate, interexchange services, consistent with the 1996 Act, we tentatively conclude that the separation requirements applied to independent LECs provide a useful model upon which to base, on an interim basis, oversight of BOC provision of out-of-region interstate, interexchange services. We intend to consider in our upcoming interexchange proceeding, however, whether it may be appropriate to modify or eliminate the separation requirements in order for some or all LECs to qualify for non-dominant treatment in the provision of out-of-region interstate, interexchange services.

12. While we address here the BOCs' provision of interexchange services originating outside the regions where the BOCs control local bottleneck facilities, some of this traffic will terminate in the regions where the BOCs retain control of local bottleneck facilities. We tentatively conclude that the separation requirements found adequate to permit non-dominant regulation of independent LEC provision of interstate, interexchange services originating and often terminating in their regions should be sufficient to allow similar treatment of BOC provision of interexchange services that originate out of their in-region states.

13. Thus, we tentatively conclude that, for now, if a BOC creates a separate affiliate to provide out-of-region interstate, interexchange services (including interLATA and intraLATA services), and if the affiliate satisfies the conditions set forth in the *Fifth Report and Order,* then the affiliate will be classified as a non-dominant carrier. As previously noted, these conditions are that the affiliate must: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with the BOC local exchange company; and (3) obtain any BOC exchange telephone company services at tariffed rates and conditions. We note that independent local exchange carriers providing interexchange services through affiliates pursuant to the *Fifth Report and Order* treat those affiliates as nonregulated affiliates under the Commission's joint cost rules and affiliate transaction rules for exchange carrier accounting purposes. We seek comment on whether a BOC affiliate providing out-of-region, interstate, interexchange services should be treated as a nonregulated affiliate for BOC accounting purposes. Finally, we tentatively conclude, at least for the present time, that if a BOC directly, or through an affiliate that fails to comply with these separation requirements, provides out-of-region interstate, interexchange services, those services will be regulated as dominant carrier offerings.

14. We invite comment on our tentative conclusions regarding BOC provision of out-of-region interLATA and intraLATA services. Any party disagreeing with these tentative conclusions should explain with specificity its position and suggestions for alternative regulatory policies. As noted, we believe that applying the well-established Fifth Report and Order requirements will facilitate rapid entry by the BOCs into the provision of out-of-region services, consistent with the intent of the 1996 Act, without imposing onerous burdens on them.

IV. Procedural Issues

A. Ex Parte Presentations

This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR §§ 1.1202, 1.1203, 1.1206.

B. Regulatory Flexibility Analysis

16. We certify that the Regulatory Flexibility Act is not applicable to the rule changes we are proposing in this proceeding. If the proposed rule changes are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Entities directly subject to the rule changes, and proposed rule changes, are large corporations engaged in the provision of local exchange and exchange access telecommunications services. We are nevertheless committed to reducing the regulatory burdens on small communications services companies whenever possible, consistent with our other public interest responsibilities. The Secretary shall send a copy of this Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601, *et seq.* (1981).

C. Comment Filing Procedures

17. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before 21 days after publication in the Federal Register, and reply comments on or before 10 days after the comment due date. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles

of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

18. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we require that comments be no longer than twenty-five (25) pages and reply comments be no longer than fifteen (15) pages. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading.

19. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

D. Ordering Clauses

20. Accordingly, it is ordered that pursuant to Sections 1, 4, 201–205, 215, 218, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201–205, 215, 218 and 220, a notice of Proposed Rulemaking is hereby adopted.

21. It is Further Ordered that, the Secretary shall send a copy of this notice of Proposed Rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3917 Filed 2–20–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[FRA Docket No. PB–9, Notice No. 5]

RIN 2130–AA73

Power Brake Regulations: Two-way End-of-Train Telemetry Devices

AGENCY: Federal Railroad Administration (FRA).

ACTION: Notice of public regulatory conference.

SUMMARY: FRA is scheduling a public regulatory conference to further discuss issues related to two-way end-of-train telemetry devices (2-way EOTs) previously developed in its notice of proposed rulemaking (NPRM) on power brakes published on September 16, 1994. By earlier notice, FRA indicated that it would defer action on the NPRM for a short period; however, FRA also stressed that it did not intend to defer implementation of the requirement for 2-way EOTs beyond the effective date contemplated by Congress. Consequently, FRA has decided to separate proposals regarding 2-way EOTs from the rest of the proposed power brake revisions and proceed with this public regulatory conference in order to clarify and resolve those issues related to 2-way EOTs and issue a final rule on this subject as soon as practicable. FRA urges railroads to immediately begin acquiring and equipping trains with 2-way EOTs to enhance the safety of their operations rather than waiting until issuance of the final rule.

DATES: (1) *Written Comments:* Written comments must be received no later than April 15, 1996. Comments received after that date will be considered to the extent practicable without incurring additional expense or delay.

(2) *Public Regulatory Conference:* A public regulatory conference to discuss issues related to 2-way EOTs will be held March 5, 1996 beginning at 8:30 a.m. in Washington, D.C. Any person wishing to participate in the public regulatory conference should notify the Docket Clerk at the address provided below at least five working days prior to the date of the conference. This notification should identify the party the person represents and the particular issues the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the conference of persons who fail to provide such notification.

ADDRESSES: (1) *Written Comments:* Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Room 8201, Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in room 8201 of the Nassif Building at the above address.

(2) *Public Regulatory Conference:* The public regulatory conference will be held at the following location and date:

Location: Nassif Building, Conference Room 2230, 400 Seventh Street SW, Washington, D.C. Date: March 5, 1996. Time: 8:30 a.m.

FOR FURTHER INFORMATION CONTACT: Thomas Peacock, Motive Power and Equipment Division, Office of Safety, RRS–14, Room 8326, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–9186), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION:

Background

In 1992, Congress amended the Federal rail safety laws by adding certain statutory mandates related to power brake safety. *See* 49 U.S.C. 20141 (formerly contained in Section 7 of the Rail Safety Enforcement and Review Act, Pub. L. No. 102- 365 (September 3, 1992), amending Section 202 of the Federal Railroad Safety Act (FRSA) of 1970, formerly codified at 45 U.S.C. 421, 431 *et seq.*). In these amendments, Congress instructed the Secretary of Transportation (Secretary) to promulgate regulations requiring the use of 2-way EOTs. Congress' mandate sets out various minimum requirements that any promulgated rule must contain and specifically lists various types of operations that are to be excluded from the requirements, leaving the Secretary with discretion to exclude other types of operations if it is in the public interest and consistent with railroad safety. See 49 U.S.C. 20141. Congress mandated that the rules be promulgated by the end

of 1993, and envisioned a date for implementation of the requirements of no later than December 31, 1997. In addition to the statutory mandate, FRA received recommendations from the National Transportation Safety Board (NTSB) and petitions from the United Transportation Union, the Brotherhood of Locomotive Engineers, the Oregon Public Utilities Commission, the Washington Utilities and Transportation Commission, and the Montana Public Service Commission to require 2-way EOTs on all cabooseless trains operating in certain territories.

In response to the statutory mandate, the various recommendations, and due to its own determination that the power brake regulations were in need of revision, FRA published an Advance Notice of Proposed Rulemaking (ANPRM) on December 31, 1992 (57 FR 62546). A section of the ANPRM was specifically designed to elicit comments, information, and views on 2-way EOTs and a portion of the public hearings covered this topic. *See* 57 FR 62550–62551. Based on the comments and information received, FRA published an NPRM regarding revision the power brake regulation which contained specific requirements related to 2-way EOTs. *See* 57 FR 47700, 47713–14, 47731, 47734, and 47743.

Following publication of the NPRM in the Federal Register (59 FR 47676), FRA held a series of public hearings in 1994 to allow interested parties the opportunity to comment on specific issues addressed in the NPRM. Public hearings were held in Chicago, Illinois on November 1–2; in Newark, New Jersey on November 4; in Sacramento, California on November 9; and in Washington, D.C. on December 13–14, 1994. These hearings were attended by numerous railroads, organizations representing railroads, labor organizations, and state governmental agencies. Due to the strong objections raised by a large number of commenters, FRA announced by notice published on January 17, 1995 that it would defer action on the NPRM and permit the submission of additional comments prior to making a determination as to how it would proceed in this matter. 60 FR 3375. In the January notice, FRA also stressed that it did not intend to defer implementation of the requirement for 2-way EOTs beyond an effective date of December 31, 1997.

In the ANPRM and the NPRM, FRA identified eleven recent incidents that might have been avoided had the involved trains been equipped with 2-way EOTs. *See* 57 FR 62550; 59 FR 47713–14. In addition, on December 14, 1994, in Cajon Pass, an intermodal train operated by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) collided with the rear end of a unit coal train operated by the Union Pacific Railroad Company resulting in the serious injury of two crew members and total estimated damages in excess of $4 million. After investigation of this incident, the NTSB concluded that had the train been equipped with a 2-way EOT the collision could have been avoided because the engineer could have initiated an emergency brake application from the end of the train. On December 15, 1995, based on the conclusion reached above, the NTSB made the following recommendation to FRA:

> Separate the two-way end-of-train requirements from the Power Brake Law NPRM, and immediately conclude the end-of-train device rulemaking so as to require the use of two-way end-of-train telemetry devices on all cabooseless trains. (Class II, Priority Action)(R–95–44).

Furthermore, on February 1, 1996, again in Cajon Pass, a westward Santa Fe freight train derailed on a descending 3-percent grade. The incident resulted in fatal injuries to two of the crew members, serious injuries to a third, and the derailment of 45 of 49 cars and four locomotives. Although investigation of this incident is currently in progress, it appears as though it could have been avoided had the train been equipped with a means for the train crew to have effected an emergency brake application from the rear of the train. The two aforementioned incidents resulted in FRA's issuance on February 6, 1996, of Emergency Order No. 18, 61 FR 5058, which requires the affected railroad to ensure that its train crews have the ability to effect an emergency brake application from the rear of the train on all westward freight trains operating through Cajon Pass.

Consequently, based on these considerations and after review of all the comments submitted, FRA has determined that in order to limit the number of issues to be examined and developed in any one proceeding it will proceed with the revision of the power brake regulations via three separate processes. In light of the testimony and comments received on the NPRM, emphasizing the differences between passenger and freight operations and the brake equipment utilized by the two, FRA will propose to separate passenger equipment power brake standards from freight equipment power brake standards. As passenger equipment power brake standards are a logical subset of passenger equipment safety standards, the passenger equipment safety standards working group will assist FRA in developing a second NPRM covering passenger equipment power brake standards. *See* 49 U.S.C. 20133(c). In addition, it is FRA's intention to have a second NPRM covering freight equipment power brake standards developed with the assistance of the Railroad Safety Advisory Committee, which FRA is in the process establishing, subject to Administration approval. Furthermore, in the interest of public safety and due to statutory as well as internal commitments, FRA intends to separate the issues related to 2-way EOTs from both the passenger and freight issues, address them in the public regulatory conference being announced by this notice, and issue a final rule on the subject as soon as practicable. FRA feels that an informal public regulatory conference would prove advantageous in the development of regulations related to 2-way EOTs. FRA also believes that the quality of the agency's final rule will be improved by facilitating an exchange of ideas that may lead to solutions acceptable to all interested parties.

Methodology

In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the public regulatory conference is a continuation of the power brake rulemaking proceeding. A court reporter will take a verbatim transcript of the conference which will be placed in the public docket for this rulemaking. The format of the discussions will be informal and will employ a topical, interactive approach. The public regulatory conference is currently scheduled for one day. FRA believes the time allotted for this conference will prove more than adequate. Of course, the conference will conclude earlier than planned if, based upon advice from the participants in attendance the agency concludes that the major issues have been adequately addressed.

Participants

FRA invites all affected parties, including small entities, to participate in the public regulatory conference. FRA believes that extensive comment from all interested parties is necessary to develop the most effective and reasonable final regulation. For this conference to be successful, participants should be prepared to discuss, at a minimum, the issues identified below and provide reasonable alternatives, if necessary. FRA also encourages participants to bring supporting documentation where appropriate.

Issues for Discussion

In 1992, Congress amended the Federal rail safety laws by adding specific statutory mandates related to 2-way EOTs which state:

(r) POWER BRAKE SAFETY.

* * * * *

(3)(A) The Secretary shall require 2-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of the train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such 2-way end of train devices. Such rules shall at a minimum—

(i) Set standards for such devices based on performance;

(ii) Prohibit any railroad, on or after the date that is one year after promulgation of such rules, from acquiring any end of train device for use on trains which is not a 2-way device meeting the standards set under clause (i);

(iii) Require that such trains be equipped with 2-way end of train devices meeting such standards not later than 4 years after promulgation of such rules; and

(iv) Provide that any 2-way end of train device acquired for use on trains before such promulgation shall be deemed to meet such standards.

(B) The Secretary may consider petitions to amend the rules promulgated under subparagraph (A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

(C) In developing the rules required by subparagraph (A), the Secretary shall consider data presented under paragraph (1).

(4) The Secretary may exclude from the rules required by paragraphs (1), (2), and (3) any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

(A) Trains that have manned cabooses;

(B) Passenger trains with emergency brakes;

(C) Trains that operate exclusively on track that is not part of the general railroad system;

(D) Trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary; and

(E) Trains that operate in a push mode.

Pub. L. No. 102–365, § 7; codified with some differences in language at 49 U.S.C. 20141 (formerly codified at 45 U.S.C. 431(r)).

FRA has already received a substantial number of comments on 2-way EOTs, either through testimony provided or written comments submitted in connection with the ANPRM and the NPRM that were previously issued. This public regulatory conference is designed to afford interested parties an opportunity to expand on those comments and further discuss the issues related to 2-way EOTs. After review of the comments received, FRA has identified seven major issues for discussion which include: the definition of ''mountain grade territory''; the handling of en route failures of the devices; the operations to which the requirements will be applicable; initial terminal requirements; design requirements; calibration requirements; and cost/benefit information. The following discussion is intended to highlight FRA's proposals regarding 2-way EOTs contained in the NPRM and to provide a brief overview of some of the comments received on those proposals. For the exact wording of any of the proposed requirements or for more detailed discussion of the proposals, individuals should refer directly to the NPRM. Furthermore, the listing of issues contained below is not intended to be exhaustive; we solicit comments on all issues relevant to 2-way EOTs.

A. Definition of ''Mountain Grade Territory''

In Appendix C of the NPRM, FRA proposed a definition of mountain grade territory as a section of track of distance, D, with an average grade of 1.5 percent or more over that distance which satisfies the relationship:

$(30/V)^2G^2D \leqq 12$

Where:

G=average grade x 100

D=distance in miles over which average grade is taken

V=speed of train

See 59 FR 47719,47753. FRA also provided a chart containing mountain grade territory curves based on an application of the definition. *See* 59 FR 47753. FRA developed this empirical relationship based on most commenters' suggestions that some type of formula be developed based on a variety of factors, including train tonnage, speed, length of grade, percent of grade, and distance of grade. FRA determined that the three most important variables in defining mountain grade were: (i) The speed of the train (V); (ii) the steepness of the grade (G); and (iii) the length of the grade (D).

According to the empirical relationship proposed by FRA, no one of these variables determines mountain grade operating conditions; it takes a combination of the three. The $(30/V)^2$ term is the ratio of the train's speed to the reference speed of 30 mph, and it is squared because the speed of the train is a dominant variable in the relationship. The V term is in the denominator because as the speed of the train increases the ratio decreases, which makes satisfying the overall inequality defining mountain grade operating conditions more likely. The G term is squared because the steepness of the grade is a dominant variable. The G term is in the numerator because a steeper grade makes satisfying the overall inequality more likely. The D term is not squared because the length of the grade is less dominant than either the speed of the train or the steepness of the grade. The D term is in the numerator because a longer distance of grade makes satisfying the overall inequality more likely. The number 12 was selected because it yields a range of reasonable results for the definition.

Many commenters stated that FRA's definition was confusing, inaccurate, and impractical. These commenters suggested that the definition would result in known mountain grades not being covered by the 2-way EOT requirement, while other areas never before believed to be mountain grades would fall within the requirement. Several commenters also recommended that the definition be eliminated and that the 2-way EOT requirements apply solely to trains operating in excess of 30 mph. The California Public Utilities Commission suggested that short of requiring the devices on every train, the fundamental criterion should be the ability of the train to stop within a safe distance. Other commenters suggested that other criteria be used to define mountain grade territory and that the formula be simplified. One commenter recommended that the proposed definition be eliminated, and that the 2-way EOT requirements be applied to trains operating over 30 mph and to heavy tonnage and long trains as defined in the proposal.

(1) FRA recognizes that the definition contained in the NPRM may be somewhat confusing and may lead to anomalous results. FRA also recognizes that a definition of mountain grade that uses speed as a variable may be inappropriate because if a significant portion of the braking system becomes

inoperative on a long, steep grade a runaway can occur regardless of the speed that the train started down the grade. Consequently, FRA is open to alternate suggestions to simplify or clarify the definition of mountain grade territory. However, FRA does not believe discarding the concept of mountain grade territory would be consistent with the safety objectives of the statute.

(2) FRA is interested in any alternative methods or formulas for defining mountain or heavy grade territory. For example:

Mountain grade territory could be defined as: any portion of a railroad with an average grade of 1% or greater where the product of the average percent grade (as a decimal) and the distance over which the grade persists (in miles) is greater than or equal to .03. Thus a 1% (.01) average grade for 3 miles or a 2% (.02) average grade for 1.5 miles would meet the definition for mountain grade territory.

FRA encourages all interested parties to develop and be prepared to discuss their alternatives for defining mountain grade territory.

(3) Several railroads include definitions of mountain grade territory in their operating rules, for example, Burlington Northern Railroad Company's Air Brake and Train Handling Rules define mountain grade as 1.8 percent grades and greater. For what purpose do railroads use these definitions of mountain grade, and could these definitions be used as a basis for defining mountain grade territory in this rule?

B. En Route Failures

In the NPRM, FRA proposed that if a 2-way EOT or equivalent device becomes incapable of initiating an emergency brake application from the rear of the train while the train is en route, then the speed of that train would be limited to 30 mph. *See* 59 FR 47714, 47743. FRA's rationale for this limitation was that two-way EOT devices are not required on trains that travel less than 30 mph. Thus, operating with a non-functional two-way EOT device is the same as not having a device; consequently, trains operating with failed two-way EOT devices should be subjected to this same limitation. Furthermore, FRA suggested that the concerns raised by several railroads regarding train delays, missed deliveries, and safety were not justified. The Association of American Railroads (AAR) as well as several railroads commented that these devices are very reliable and have an extremely low failure rate, if properly maintained. Consequently, FRA believed that the concerns of the railroads were outweighed by the potential harm to both the public and railroad employees caused by trains being allowed to operate without the devices at speeds which Congress and FRA feel require the added safety benefits provided by these devices.

Several railroads commented on FRA's proposal reinforcing the view that such a limitation could cause serious train delays and missed deliveries and would actually produce additional safety hazards due to the bunching of trains. Commenters also suggested that FRA failed to include the cost of this limitation in its analysis. Other commenters noted that subsequent to the drafting of the NPRM, Canada eliminated its speed restriction for failure of a 2-way EOT en route.

(1) Are there alternative operating limits that could be imposed when a failure of a 2-way EOT occurs en route providing a degree of safety similar to the proposed speed limitation?

(2) Can the costs of train delays and missed deliveries attributable to the proposed speed limitation be quantified? What are they?

(3) Has Canada's elimination of a similar speed restriction resulted in a reduction in safety? What has been the result of the elimination?

(4) To what extent should failures en route in mountain grade territory trigger special restrictions?

C. Applicability

Based on the statutory mandate and after review of the comments received and the accidents relied on for support of the use of 2-way EOTs, FRA in the NPRM proposed that the devices be required equipment on trains that operate at speeds in excess of 30 mph and on trains that operate in mountain grade territories. *See* 59 FR 47743. (A discussion of FRA's definition of ''mountain grade territory'' is contained in Section A). In addition to those operations specifically excluded from 2-way EOT requirements by the statute (49 U.S.C. 20141), FRA found sufficient safety justification for excluding two other types of operations: (i) freight trains equipped with a locomotive capable of initiating a brake application located in the rear third of the train length; and (ii) trains equipped with fully independent secondary braking systems capable of safely stopping the train in the event of failure of the primary system. In order to provide the industry with time to acquire a sufficient number of 2-way EOTs and to ease the economic impact of acquiring the devices, FRA proposed that the requirement that all road trains not specifically excepted be equipped with either a 2-way EOT or an alternate technology device performing the same function not become effective until December 31, 1996. *See* 59 FR 47713, 47743. FRA also proposed that all 2-way EOTs purchased prior to the effective date of the final rule would be deemed to meet the design requirements contained in the proposal. *See* 59 FR 47713, 47743.

Other than FRA's definition of ''mountain grade territory,'' there were very few comments specifically addressing the applicability requirements contained in the NPRM other than stylistic suggestions. One commenter did recommend that the exception for trains operating in a push mode be amplified to require that the control cab on the rear of train be occupied, display a reading of the brake pressure, and be capable of making an emergency application.

(1) Is there a safety justification for excluding other types of operations not currently contemplated? What are they?

(2) As it has been over three years since Congress issued the statutory mandate regarding 2-way EOTs and because the data relied on by FRA in developing the NPRM is close to two years old, FRA would like updated information regarding the number of 2-way EOTs currently in use, the number currently on order with manufacturers, the current cost of 2-way EOTs meeting the proposed design requirements, and the reliability of the devices currently in use.

(3) Subsequent to the drafting of the NPRM, FRA has learned that some traditional passenger operations are considering the operation of mixed passenger and freight trains. How should these types of operations be handled with regard to the use of 2-way EOTs? Is there a safety justification for excepting these operations from the requirements?

D. Initial Terminal Requirements

At the ANPRM stage, FRA received several comments regarding the batteries used in 2-way EOTs. Several commenters suggested that the most frequent cause of failure of 2-way EOTs is battery failure. These commenters also indicated that this problem could be cured by replacing batteries at initial terminals. Other commenters suggested that some minimum charge be required at initial terminals and that inspections be performed at all brake tests and crew change points. Several commenters also suggested that interchangeable battery packs were necessary because some railroads were unable to charge the devices that come onto their lines from other railroads.

Based on these comments, FRA proposed that any train equipped with a 2-way EOT or its equivalent shall not depart from the point where the train is originally assembled unless (i) the device is capable of initiating a brake application from the rear of the train and (ii) the batteries of the device are charged to at least 75 percent of watt-hour capacity. *See* 59 FR 47734. Although FRA did not receive any comments on this provision subsequent to the issuance of the NPRM, FRA feels this was due to most commenters focusing on some of the broader issues contained in the NPRM.

Due to the period of time since hearings on the ANPRM were conducted, FRA requests the following:

(1) Information regarding the operating life of batteries currently used in 2-way EOTs;

(2) Information regarding the reliability and interchangeability of these batteries; and

(3) Opinions on whether the proposed requirements are necessary based on the experiences of those parties currently using 2-way EOTs on a regular basis.

E. Design Requirements

In order to maintain uniformity in the performance of 2-way EOT devices, FRA proposed basic performance and design requirements for these devices in the NPRM. As 2-way EOTs that are currently in production meet the design requirements already established for one-way devices contained at 49 CFR 232.19, FRA intended to retain those requirements, apply them to 2-way EOTs and establish other specific requirements to ensure two-way communication and the ability to make an emergency brake application from the rear of the train. The additional proposed requirements include the following:

(a) An emergency brake application command from the front unit shall activate the emergency air valve at the rear of the train within one second.

(b) The rear unit shall send an acknowledgment message to the front unit immediately upon receipt of a brake application command. The front unit shall listen for this acknowledgment and repeat the brake application command if the acknowledgment is not correctly received.

(c) The rear unit, on receipt of a properly coded command, shall open a valve in the brake line and hold it open for a minimum of 15 seconds. This opening of the valve shall cause the brake line to vent to the exterior.

(d) The valve opening and hose diameter shall have a minimum diameter of 3/4 inch to effect an emergency brake application.

(e) Restoring of the braking function (recharging the air brake system) shall be enabled automatically by the rear equipment, no more than 60 seconds after it has initiated an emergency.

(f) The front unit shall have a manually operated switch which, when activated, shall initiate an emergency brake transmission command to the rear unit. The switch shall be labeled ''Emergency'' and shall be protected so that there will exist no possibility of accidental activation.

(g) The availability of the front-to-rear communications link shall be checked automatically at least every 10 [seconds]*.

(h) Means shall be provided to confirm availability and proper functioning of the emergency valve.

(i) Means shall be provided to arm the front and rear units to ensure the rear unit responds only to an emergency command from its associated front unit.

See 59 FR 47731. *(Section 232.117(g) of the NPRM inadvertently contained ''10 minutes'' for this requirement; it should have read ''10 seconds.'' *See* 59 FR 47731). FRA recognizes that currently available 2-way EOTs have several optional features that could prove beneficial to railroads and although FRA recommends that railroads obtain as many of the optional features as they can when purchasing the devices, FRA does not intend to mandate their use and feels each railroad is in the best position to determine which features benefit its operation.

Several commenters suggested that the provision requiring the automatic restoration of the brake function after 60 seconds should be eliminated. These commenters stated that the brake function should not be restored until the train has come to a complete stop and/or that the locomotive engineer should retain control of the restoration. One commenter recommended that a separate labeled and protected emergency switch should not be mandated if the EOT's emergency application could be integrated into the existing emergency brake controls.

(1) Are the proposed design requirements sufficient to ensure uniformity in the devices' design? Do they unduly restrict technological advances?

(2) FRA is interested in any information regarding any technological advancements or design changes, that may have been made in the area of 2-way EOTs in the last two years, that would necessitate a change in or addition to the proposed design requirements.

(3) FRA is also interested in any information from railroads currently using 2-way EOTs regarding the procedures or practices they have adopted for testing and inspecting the devices to ensure that the devices are armed and operational prior to a train's departure. Could or should these practices and procedures form the basis of such requirements in this rule?

(4) Based on information obtained in investigating the recent accident near Cajon Pass, FRA is interested information regarding problems with maintaining communication between the front and rear units. What procedures or operations have been developed to overcome these communication problems? Could or should these be incorporated in this rule? Are there additional design requirements that could cure these communication problems? Minimum wattage requirements? Requiring repeater stations where necessary?

F. Calibration Requirements

In the NPRM, FRA proposed to extend the calibration period for all EOTs from 92 days to 365 days. *See* 59 FR 47700, 47731. FRA based this proposed extension not only on its own experience but also on the comments received from several parties that the devices are fairly reliable and can operate for years without calibration. Furthermore, FRA believes that the 92-day calibration period was established at a time when there was little experience with the devices. Since that time, not only has calibration of the devices not proven to be a problem, but technology has further improved the reliability of the devices. Although several commenters, both at the ANPRM and NPRM stage, commented on the unreliability of the devices, these comments generally addressed either the failure of the railroads to properly perform the calibrations or the misuse of the devices.

(1) FRA is interested in information and operating experiences regarding the reliability and accuracy of recently manufactured EOTs.

G. Cost/Benefit Information

Based on information collected and additional research conducted subsequent to the issuance of the NPRM, FRA has updated its Regulatory Impact Analysis regarding 2- way EOTs. *See* FRA's Regulatory Impact Analysis: Two-way End-of-Train Devices. (This document will be distributed to all interested parties at the public regulatory conference, or copies may be

obtained by contacting the individuals previously identified.) FRA currently estimates that the proposed requirements regarding 2-way EOTs would cost the industry approximately $214 million over 20 years at a 7 percent discount rate. This estimate is based on the following assumptions: (i) unit purchase and installation cost of $7,000 per unit (front and rear); (ii) annual maintenance and calibration cost of § 415 per unit; (iii) Class I railroads would be required to purchase 16,375 units; and (iv) Class II and Class III railroads would be required to purchase 1,096 units.

Although FRA did not quantify the safety benefits that would be achieved by requiring 2-way EOTs in its original Regulatory Impact Analysis of the NPRM, FRA is in the process of developing an analysis to include safety benefits of the proposed requirements. *See* FRA's Regulatory Impact Analysis: Two-way End-of-Train Devices. FRA currently estimates that the quantifiable safety benefits from the proposal would be approximately $46 million over 20 years at a 7 percent discount rate. However, it should be noted that the benefits currently estimated by FRA are extremely conservative and are based on a limited number of cost factors arising as a result of an accident. FRA's conservative benefit estimate does not capture many of the costs associated with an accident such as: wreck clearance; damage to lading; train delay, emergency response, or enviromental clean-up. FRA looks forward to receiving information and suggestions from commenters on methods for capturing or estimating these additional costs. FRA's Office of Safety, Accidents Reports Division, has identified 26 accidents since 1990 which potentially could have been prevented had the trains been equipped with 2-way EOTs. The accidents and railroad property damages associated with the potentially preventable accidents are contained in Table 1 below.

TABLE 1—POTENTIALLY PREVENTABLE ACCIDENTS*

Date	Place	Listed Cause**	Injuries	Fatalities	RR Property updated to 12/95 $	Rate of effectiveness	Accidents preventable Benefit
900429	Yardley, WA	Automatic Brake, other improper use.	1	0	$46,560	0.9	$41,904
901004	Devore, CA	Use of brakes, other	0	0	7,857	0.9	7,071
901022	Esbon, KS	use of brakes, other	1	0	90,016	0.9	81,014
900517	Nampa, WY	Obstructed brake pipe	0	0	151,319	0.9	136,187
910918	Spague, WA	Obstructed brake pipe	0	1	4,275,873	0.9	3,848,286
910304	Waterfall, WY	Use of brakes, other	2	0	980,075	0.5	882,068
910304	Waterfall, WY	Use of brakes, other	0	0	646,407	0.5	581,767
911021	Vernon, IA	Other brake defects, cars	0	0	24,755	0.5	22,280
920307	Kansas City, MO.	Obstructed brake pipe	2	0	430,432	0.9	387,389
920307	Kansas City, MO.	Obstructed brake pipe	0	0	61,875	0.9	55,688
920611	Money, MS	Improper operation of line air	0	0	224,778	0.5	202,300
920611	Money, MS	Improper operation of line air	2	0	452,334	0.5	407,101
920913	Benton, WY	Other brake defects, loco	0	0	15,579	0.5	14,021
921016	Sterling, IL	Other brake defects, loco	0	0	148,998	0.5	134,098
921203	Hillcrest, ID	Automatic brake, insufficient	2	0	7,071	0.5	6,364
921203	Hillcrest, ID	Automatic brake, insufficient	0	0	71,819	0.5	64,638
931001	Keystone, NB	Obstructed brake pipe	0	0	10,572	0.9	9,515
931001	Keystone, NB	Obstructed brake pipe	2	0	2,642,466	0.9	2,378,219
931004	Faust, UT	Use of brakes, other	0	0	14,801	0.9	13,321
931011	Fulton, KY	Improper operation of line air	0	0	3,172	0.5	2,854
931011	Fulton, KY	Improper operation of line air	0	0	11,418	0.5	10,276
931221	Wood, IA	Improper operation of line air	0	0	321,600	0.5	289,440
931221	Wood, IA	Improper operation of line air	0	0	106,936	0.5	96,242
931223	Grenada, MS	Improper operation of line air	0	0	5,815	0.5	5,233
931223	Grenada, MS	Improper operation of line air	0	0	5,286	0.5	4,757
940909	Cajon, CA	Automatic brake other improper use.	0	0	73,331	0.9	65,998
940909	Cajon, CA (San B).	Automatic brake, insufficient	0	0	2,353	0.9	2,117
941214	Cajon, CA	Obstructed brake pipe	1	0	1,293,484	0.9	1,164,135
941214	Cajon, CA	Obstructed brake pipe	2	0	2,765,060	0.9	2,488,554
950209	Nelsons, WI	Use of brakes, other	0	0	25,025	0.9	22,522
950209	Nelsons, WI	Use of brakes, other	1	0	5,702	0.9	5,132
950406	Argonne, MI	Improper operation of line air	0	1	268,798	0.9	241,918
960201	Cajon, CA	Unknown	1	2	Unknown		Unknown
TOTAL			17	4	16,540,459		14,886,413

*A double entry showing more than one accident on the same date and at the same location indicates that the equipment or other property of two railroads were involved.

**Cause listed in the Rail Equipment Accident/Incident Report filed with FRA, pursuant to 49 CFR Part 225, by the railroad involved.

The accidents range in severity from those having very little monetary damages to those involving death, serious injury, the release of hazardous materials and the subsequent closure of a major federal highway and evacuation of a nearby town. The values for railroad property and track damages are shown updated to December 1995 dollars using the Engineering News Record index for heavy machinery and equipment.

Furthermore, there is a wide variety of qualitative safety benefits which could be gained from prevention of accidents by using 2-way EOTs. These types of qualitative benefits would include risk reduction of accidents involving hazardous materials and the associated costs, as well as reduced anxiety for residents of communities along railroad tracks, a safer environment for their families, and improved quality of life. Unfortunately, we do not have the type of information necessary to quantify the safety impact of many of these elements.

(1) Are the assumptions used by FRA in its updated Regulatory Impact Analysis valid?

(2) What is the current purchase and installation cost of a 2-way EOT required by FRA's proposal?

(3) Are the estimated annual maintenance costs accurate?

(4) Is FRA's estimate of the number of units required to be purchased accurate? How many 2-way units are currently in operation? How many are currently on order with a manufacturer?

(5) What is the en route failure rate of 2-way devices currently in use?

(6) What is the average useful life of currently available 2-way EOTs? Front units? Rear units?

(7) What is the estimated cost per hour of delay for a given train?

(8) On average, how long does it take to calibrate newer (post-1992) 2-way EOTs?

(9) Should any of the accidents/incidents identified in Table 1 not be considered potentially preventable? Why? Are there other accidents/incidents, not identified in Table 1, occurring since 1990 that should be added to the list of potentially preventable accidents/incidents? Provide specifics.

(10) FRA's ability to analyze accident/incident costs contained in Table 1 has been limited to data supplied by the industry. This information does not include costs such as wreck clearance, damage to lading, train delay, emergency response, and environmental cleanup. Consequently, FRA encourages commenters to provide any suggestions or information they have for capturing, or estimating, these additional costs.

H. Compliance Plans

Unlike most FRA safety rulemaking proceedings, this proceeding is principally concerned with defining exceptions to an otherwise absolute statutory command. Thus, whatever the final rule may provide, railroads must plan well in advance of December 31, 1997 (the date by which the statute requires all covered trains to be equipped with 2-way EOTs) to procure large numbers of 2-way EOTs, equip their trains with them, and train their employees to install, maintain, and use them. FRA, therefore urges railroads to immediately begin acquiring and equipping trains with 2-way EOTs to enhance the safety of their operations rather than waiting until the issuance of the final rule. FRA is interested in knowing in the greatest detail available what plans railroads currently have in place for complying with the statute.

Issued in Washington, D.C., on February 15, 1996.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–4017 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–87; Notice 1]

RIN 2127–AF78

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments to Standard No. 108, the Federal motor vehicle standard on lighting, which would adopt new photometric requirements for motorcycle headlamps and which would improve the objectivity of the aiming of their upper beam. The new photometric requirements would be those of Society of Automotive Engineers (SAE) Standard J584 OCT93, added as a new Figure 31 to Standard No. 108. They would exist simultaneously with the current photometric requirements of SAE J584 April 1964, for a short time, and would become mandatory between two and four years after issuance of the final rule. When being tested for photometric compliance with Figure 31, the upper beam of motorcycle headlamps would be aimed photoelectrically rather than visually, as at present.

The amendments should enhance motor vehicle safety by improving visibility for the motorcycle operator, and detectability of his or her machine.

DATES: Comments are due April 22, 1996.

ADDRESSES: Comments should refer to Docket No. 95–87; Notice 1 and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Safety Performance Standards, NHTSA (Tp: 202–366–5276; FAX: 202–366–4329).

SUPPLEMENTARY INFORMATION: Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,* specifies requirements for motorcycle headlamps. Principally, these are the specifications of SAE Standard J584 April 1964, which have been incorporated by reference into Standard No. 108.

Motorcycle safety remains a principal concern of NHTSA. There are over 6 times as many motorcycles on the road today as there were 35 years ago. Figures from the National Center for Health Statistics (NCHS), Department of Health and Human Services, and State Accident Summaries show 574,000 registered motorcycles in 1960, as compared with 3,718,127 in 1994, according to the Fatal Accident Reporting System (FARS). During roughly the same period, the annual number of motorcycle fatalities increased slightly, from 2,170 in 1967, according to the NCHS, to 2,304 in 1994, as indicated in the FARS.

The Motorcycle Industry Council (MIC) has petitioned for rulemaking to amend Standard No. 108 to allow SAE Standard J584 OCT93 as an alternative to SAE J584 April 1964. According to MIC, motorcycle headlamps designed to conform to SAE J584 April 1964 have difficulty in providing sufficient lower beam illumination directly in front of the motorcycle, a need met by SAE J584 OCT93. Further, adoption of the 1993 requirements would allow manufacturers to install the same headlamp design on motorcycles sold in the United States as are currently being installed on motorcycles sold in 50 other countries.

Although NHTSA has granted MIC's petition, SAE J584 OCT93 is inappropriate for incorporation in full because it divides motorcyles into classes and sets forth different specifications applicable to particular classes. In Standard No. 108, NHTSA regulates motorcycles as a single class, with some requirements applicable to a sub-category of smaller, less powerful machines called ''motor driven cycle''. Further, the permanent co-existence of two SAE standards, which prescribe different minima for the same test points, would undermine efforts to enforce the new, higher set of requirements.

Upon review, NHTSA has tentatively concluded that adoption of the

photometric requirements in J584 OCT93 could enhance safety and lead to harmonization of motorcycle headlamp standards. Both the maxima and minima candela are increased in J584 OCT93. Further, specifications are added for 7 new test points on the lower beam (5 for motor driven cycles), and 7 on the upper beam (1 for motor driven cycles). This increase in performance over that provided by the 1964 specifications promises better visibility for the operator and detectability by other motorists. This could reduce crashes for motorcyclists. Because of this potential, NHTSA has tentatively concluded that the new photometric requirements should become mandatory. However, because SAE J584 OCT93 prescribes higher test point minima than Standard No. 108's J584 April 1964, current motorcycle headlamps cannot be certified to meet the new SAE specifications. Consequently, NHTSA is willing to allow a period of time in which the two specifications would co-exist as options until industry could retool for compliance with the newer ones. The agency is uncertain as to the time needed for headlamp redesign. For this reason, it is proposing that the new requirements (contained in proposed Figure 31) become mandatory not earlier than two years and not later than four years after publication of the final rule, with optional compliance permitted beginning 30 days after publication. NHTSA requests comments on the appropriate lead time to make the proposed changes to motorcycle headlamp photometry. The final rule, of course, would establish a single date for mandatory compliance.

On its own accord, the agency reviewed the new and old SAE requirements to determine if there were other areas where motorcycle headlamp performance can be enhanced. It found one such area. The April 1964 version of SAE J584 allows the upper headlamp beam to be aimed visually during the photometric test, while all subsequent versions have specified that it be aimed photoelectrically. Because a Federal motor vehicle safety standard by definition must be ''objective'', NHTSA has tentatively concluded that a requirement for photoelectric aim of the upper beam will improve the objectivity of Standard No. 108, and assist manufacturers in their determinations of compliance for certification purposes. Therefore, it is proposing that this method of aiming be used in testing headlamps to the photometrics of Figure 31.

In summary, the two amendments would be effectuated as follows. The amendments would be added to Standard No. 108 thirty days after publication of the final rule in Standard No. 108. At that time, a manufacturer would have the choice of continuing to conform to the 1964 photometrics and visual determination of upper beam compliance, or to conform to the photometrics of Figure 31 and photoelectric determination of upper beam compliance. As of a date two to four years after publication of the final rule, the manufacturer would be required to conform to Figure 31 and photoelectric determination.

Finally, the agency proposes to place all requirements pertaining to the performance of motorcycle headlamps in S7, Headlighting requirements, which currently incorporates all such requirements for motor vehicles other than motorcycles. New paragraph S7.9 will accomplish this purpose. Paragraphs S5.1.1.23, S5.1.1.24, and S5.6 (headlamp modulations systems) would become paragraphs S7.9.3, S7.9.5, and S7.9.4, respectively.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12866. Further, it has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. NHTSA currently anticipates that the costs of the final rule would be so minimal as not to warrant preparation of a full regulatory evaluation. Headlamps are changed as part of styling; as long as adequate leadtime is allowed no costs should be incurred. However, for comments on this assumption, NHTSA is asking for comments on the costs and other impacts associated with a two to four-year leadtime for mandatory compliance with a final rule. If the comments received indicate that the impacts are more than minimal, NHTSA will prepare a full regulatory evaluation before issuing a final rule.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. The composition of motorcycle headlamps would not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. For the reasons stated above and below, I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motorcycles and their headlamps, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act. The agency does not anticipate that the cost of headlamps would increase as a result of this rulemaking action.

Executive Order 12612 (Federalism)

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

Civil Justice

A final rule based on this proposal would not have any retroactive effect. Under 49 U.S.C. § 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 49 U.S.C. § 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Request for Comments

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

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

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A

request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

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

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, 49 CFR Part 571 would be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

2. Section 571.108 would be amended by

a. removing and reserving paragraphs S5.1.1.23, S5.1.1.24, S5.6, S5.6.1 and S5.6.2;

b. adding new paragraphs S7.9, S7.9.1 through S7.9.4, S7.9.4.1, S7.9.4.2, and S7.9.5;

c. adding in numerical order Figure 31; and

d. amending Table III by revising the text immediately following the Table heading and by revising the entry for Headlamps, to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.1.1.23 [Reserved]

S5.1.1.24 [Reserved]

* * * * *

S5.6 [Reserved]

S5.6.1–S5.6.2 [Reserved]

* * * * *

S7 *Headlighting requirements.*

* * * * *

S7.9 *Motorcycles.* Each motorcycle shall be equipped with a headlighting system designed to conform to the following requirements.

S7.9.1 A motorcycle manufactured before [the date specified in S7.9.2] may be equipped with—

(a) A headlighting system designed to conform to SAE Standard J584 *Motorcycle Headlamps* April 1964, or to SAE Standard J584 April 1964 with the photometric specifications of Figure 31 of this section and the upper beam aimability specifications of paragraph S7.9.3 of this section; or

(b) One half of any headlighting system specified in S7.1 through S7.6 of this section which provides both a full upper beam and full lower beam, and where more than one lamp must be used, the lamps shall be mounted vertically, with the lower beam as high as practicable.

S7.9.2 A motorcycle manufactured on or after [the effective date that will be two to four years after the publication of the final rule], shall be equipped with—

(a) A headlighting system designed to conform to SAE Standard J584 *Motorcycle Headlamps* April 1964 with the photometric specifications of Figure 31 of this section and the upper beam aimability specifications of paragraph S7.9.3 of this section; or

(b) A headlighting system that conforms to S7.9.1(b) of this section.

S7.9.3 The upper beam of a multiple beam headlamp designed to conform to the photometric requirements of Figure 31 of this section shall be aimed photoelectrically during the photometric test in the manner prescribed in SAE Standard J584 OCT93 *Motorcycle Headlamps.*

S7.9.4 *Motorcycle headlamp modulation system.*

S7.9.4.1 A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity, provided that:

(a) The rate of modulation shall be 240 ±40 cycles per minute.

(b) The headlamp shall be operated at maximum power for 50 to 70 percent of each cycle.

(c) The lowest intensity at any test point shall be not less than 17 percent of the maximum intensity measured at the same point.

(d) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit.

(e) Means shall be provided so that both the lower beam and upper beam remain operable in the event of a modulator failure.

(f) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament light operating at 3000° Kelvin is either less than 270 lux (25 foot-candles) of direct light for upward pointing sensors or less than 60 lux (5.6 foot-candles) of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A Kodak Gray Card (Kodak R–27) is placed at ground level to simulate the road surface in testing downward pointing sensors.

(g) When tested in accordance with the test profile shown in Figure 9, the voltage drop across the modulator when the lamp is on at all test conditions for 12 volt systems and 6 volt systems shall not be greater than .45 volt. The modulator shall meet all the provisions of the standard after completion of the test profile shown in Figure 9 of this section.

(h) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

S7.9.4.2(a) Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labeled with the maximum wattage, and the minimum wattage appropriate for its use. Additionally, each such modulator shall comply with S7.9.4.1(a) through (g) of this section when connected to a headlamp of the maximum rated power and a headlamp of the minimum rated power, and shall provide means so that the modulated beam functions at design voltage when the modulator is off.

(b) Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

S7.9.5 Each replaceable bulb headlamp that is designed to meet the photometric requirements of paragraph S7.9.1(a) or paragraph S7.9.2(a) of this section and that is equipped with a light source other than a replaceable light source meeting the requirements of paragraph S7.7 of this section, shall

have the word ''motorcycle'' permanently marked on the lens in characters not less than 0.114 in. (3 mm) in height.

* * * * *

FIGURE 31–MOTORCYCLE AND MOTOR-DRIVEN CYCLE HEADLAMP PHOTOMETRIC REQUIREMENTS

Test points (deg.)		Motorcycle (candela)	Motor-driven cycle (candela)	Motor driven cycle with single lamp system (candela)
Up or down	Left or right			
Lower Beam				
1.5U	1R to R	1400–Max	1400–Max	
1.5U	1R to 3R			1400–Max.
1U	1.5L to L	700–Max	700–Max	700–Max.
0.5U	1.5L to L	1000–Max	1000–Max	1000–Max.
0.5U	1R to 3R	2700–Max	2700–Max	2700–Max.
1.5D	9L and 9R	700–Min		
2D	0.0R	7000–Min	5000–Min	4000–Min.
2D	3L and 3R	4000–Min	3000–Min	3000–Min.
2D	6L and 6R	1500–Min	1500–Min	1500–Min.
2D	12L and 12R	700–Min		
3D	6L and 6R	800–Min	800–Min	
4D	0.0R	2000–Min	2000–Min	1000–Min.
4D	4R	12500–Max	12500–Max	12500–Max.

Test points (deg.)		Motorcycle (candela)	Motor-driven cycle (candela)
Up or down	Left or right		
Upper Beam			
2U	0.0R	1000–Min	
1U	3L and 3R	2000–Min	2000–Min.
0.0U	0.0R	12500–Min	10000–Min.
0.5D	0.0R	20000–Min	20000–Min.
0.5D	3L and 3R	10000–Min	5000–Min.
0.5D	6L and 6R	3300–Min	2000–Min.
0.5D	9L and 9R	1500–Min	
0.5D	12L and 12R	800–Min	
1D	0.0R	17500–Min	15000–Min.
2D	0.0R	5000–Min	5000–Min.
3D	0.0R9	2500–Min	2500–Min.
3D	6L and 6R		800–Min.
3D	9L and 9R	1500–Min	
3D	12L and 12R	300–Min	
4D	0.0R	1500–Min	
4D	0.0R	7500–Max	7500–Max.
Anywhere	Anywhere	75000–Max	75000–Max.

* * * * *

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

[All Passenger Cars and Motorcycles, and Multipurpose Passenger Vehicles, Trucks, Buses and Trailers of Less Than 80 (2032) Inches (mm) Overall Width]

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	Applicable SAE standard or recommended practice (See S5 for subreferenced SAE materials)
Headlamps	See S7	None	See S7.9	J566 January 1960.

* * * * * * *

Issued on: February 5, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2742 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 61, No. 35
Wednesday, February 21, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 95–075–2]

Dupont Agricultural Products; Availability of Determination of Nonregulated Status for Cotton Line Genetically Engineered for Tolerance to Sulfonylurea Herbicides

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a cotton line developed by Dupont Agricultural Products designated as 19–51a that has been genetically engineered for tolerance to sulfonylurea herbicides is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Dupont Agricultural Products in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Dupont Agricultural Products petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: January 25, 1996.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Sivramiah Shantharam, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1995, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 95–256–01p) from Dupont Agricultural Products (Dupont) of Wilmington, DE, seeking a determination that a cotton line designated as 19–51a that has been genetically engineered for tolerance to sulfonylurea herbicides does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On October 26, 1995, APHIS published a notice in the Federal Register (60 FR 54839–54840, Docket No. 95–075–1) announcing that the Dupont petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject cotton line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether cotton line 19–51a posed a plant pest risk. The comments were to have been received by APHIS on or before December 26, 1995. APHIS received two comments on the subject petition during the designated 60-day comment period. Both comments were from State departments of agriculture and both were favorable to the petition.

Analysis

Cotton line 19–51a has been genetically engineered with a gene from tobacco which encodes an altered acetolactate synthase enzyme that enhances tolerance to sulfonylurea herbicides. The subject cotton line was developed through the use of the *Agrobacterium tumefaciens* transformation system.

Cotton line 19–51a has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains regulatory gene sequences derived from the plant pathogen *A. tumefaciens.* However, evaluation of field data reports from field tests of the subject cotton line conducted under APHIS permits or notifications since 1991 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject cotton plants' release into the environment.

Determination

Based on its analysis of the data submitted by Dupont and a review of other scientific data, comments received, and field tests of the subject cotton line, APHIS has determined that cotton line 19–51a: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than cotton developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not harm other organisms, including agriculturally beneficial organisms and threatened and endangered species; and (5) should not cause damage to raw or processed agricultural commodities. Therefore, APHIS has concluded that cotton line 19–51a and any progeny derived from hybrid crosses with other nontransformed cotton varieties will be just as safe to grow as traditionally bred cotton lines that are not regulated under 7 CFR part 340.

The effect of this determination is that Dupont's cotton line designated as 19–51a is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of cotton line 19–51a or its progeny. However, the importation of the subject cotton line or seeds capable of propagation is still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The

EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372; 60 FR 6000–6005, February 1, 1995). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that cotton line 19–51a and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 14th day of February 1996.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–3824 Filed 2–20–96; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on Tuesday, March 12, 1996, at the U.S. Commission on Civil Rights, Conference Room, Room 540, 624 Ninth Street NW, Washington, DC 20001. The purpose of the meeting is to discuss revisions to a draft report on residential mortgage lending.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Maria Charito Kruvant, 202–966–5804, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3890 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on Thursday, March 14, 1996, at the Midland Hotel, 172 West Adams, Chicago, Illinois 60603. The purpose of the meeting is to hold an Illinois Consultation: Focus on Affirmative Action.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Mathewson, 312–360–1110, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3891 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on Friday, March 15, 1996, at the Holiday Inn-Hillside, 4400 Frontage Road, Hillside, Illinois 60162. The purpose of the meeting is to hold a press conference to release the Advisory Committee's report, *Race Relations and Equal Education Opportunity at Proviso West High School*, and to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Mathewson, 312–360–1110, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3892 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Wednesday, March 6, 1996, at the Holiday Inn South/Convention Center, 6820 South Cedar Street, Lansing, Michigan. The purpose of the meeting is to hold a press conference to release the Advisory Committee's report, *Discipline in Michigan Public School and Government Enforcement of Equal Education Opportunity* and to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Janice G. Frazier, 312–353–8311, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3889 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9–96]

Foreign-Trade Zone 154—Baton Rouge, Louisiana Application for Subzone Status, Exxon Corporation (Oil Refinery/Petrochemical Complex), Baton Rouge, Louisiana Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Baton Rouge Port Commission, grantee of FTZ 154, requesting special-purpose subzone status for the oil refinery complex of Exxon Corporation, located in the Baton Rouge, Louisiana area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 7, 1996.

The refinery and petrochemical complex (2,280 acres) covers six sites in the Baton Rouge, Louisiana area: *Site 1* (980 acres, 424,000 BPD capacity)—main refinery complex, located at 4045 Scenic Hwy. on the Mississippi River, East Baton Rouge Parish; *Site 2* (140 acres, 11,000 tons/day capacity)—petrochemical plant, located adjacent to the refinery at 4999 Scenic Hwy., East Baton Rouge Parish; *Site 3* (580 acres, 1.5 million barrel capacity)—Maryland Tank Farm storage facility/plastics plant, located at 11675 Scotland-Zachary Hwy., East Baton Rouge Parish; *Site 4* (60 acres, 5,000 BPD capacity)—lubricants plant, located at 2230 Highway 1 North, across the Mississippi River from the main refinery, West Baton Rouge Parish; *Site 5* (460 acres, 2.9 million barrel capacity)—Anchorage Tank Farm, located adjacent to the lubricants plant, West Baton Rouge Parish; and, *Site 6* (100 acres, 6.5 million barrel capacity)—Sorrento Salt Dome, located on Louisiana Hwy. 3140, some 2 miles east of U.S. Hwy. 61, Ascension Parish. Exxon operates the six sites as an integrated refinery/petrochemical complex.

The refinery and petrochemical complex (4,000 employees) is used to produce fuels, petrochemical feedstocks and petrochemical products. Fuels produced include gasoline, jet fuel, distillates, gas oils, residual fuels, and naphthas. Petrochemical feedstocks include ethylene, propylene, isobutylene, butadiene, and benzene. Refinery by-products include sulfur, carbon black oil, petroleum waxes, and petroleum coke. The complex also produces petrochemcial products such as lubricating oils, process oils, petroleum resins, benzene phthalic anhydride, methyl ethyl ketone, alkyl esters, alcohols, neo acids, isoprene, naphthenic acid, Vistalon® Rubber, Exxon® Bromobutyl, Escorez® Cyclics, Jayflex® Plasticizer, Exxate® Solvents. Some 40 percent of the crude oil (85 percent of inputs), and some feedstocks and motor fuel blendstocks used in producing fuel products are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. (The remaining finished products—fuel and petrochemical products—generally have the same or higher duty rates than crude oil, and for those products zone procedures would be primarily used to defer Customs duty payments.) The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is [60 days from date of publication]. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to [75 days from date of publication]).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, One Canal Place, 365 Canal Street, Suite 2150, New Orleans, Louisiana 70130

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: February 7, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3753 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 8–96]

Foreign-Trade Zone 70—Detroit, Michigan; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 70, requesting authority to expand its zone in Detroit, Michigan, within the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 5, 1996.

FTZ 70 was approved on July 21, 1981 (Board Order 176, 46 FR 38941) and expanded on November 27, 1989 (Board Order 453, 54 FR 50258) and April 20, 1990 (Board Order 471, 55 FR 17775). An application is currently pending with the Board for an additional site at the Detroit Metropolitan Wayne County Airport (Docket 20–95).

The applicant is now requesting authority to further expand the general-purpose zone to include a site (37 acres) located in Detroit adjacent to I–75/I–96 and the Ambassador Bridge which spans the Detroit River, linking Detroit and Windsor, Ontario (Canada). The Detroit International Bridge Company, which owns the Ambassador Bridge, leases the proposed zone site and will serve as zone operator for the site.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 22, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 6, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 477 Michigan Avenue, 1140 McNamara Building, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, Room

3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: February 7, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3754 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

A–583–009

Color Television Receivers, Except for Video Monitors, From Taiwan; Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of amendment to final results of antidumping Duty Administrative Review.

SUMMARY: On April 19, 1995, and April 25, 1995, the United States Court of International Trade (CIT) affirmed our results for the following redeterminations on remand of the final results of administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan: *Zenith Electronics* v. *United States,* Consol. Court No. 92–01–00007 (fourth and sixth reviews); and, *AOC International Ltd. et. al.* v. *United States,* Consol. Court No. 92–06–00367 (seventh review).

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 12 and December 13, 1994, the CIT issued orders directing the Department to recalculate the valued-added tax (VAT) according to the methodology employed in *Federal Mogul* v. *United States,* 834 F. Supp. 1391 (CIT 1993) (*Federal Mogul*) for various companies for the periods April 1, 1987 through March 31, 1988 (fourth review), April 1, 1989 through March 31, 1990 (sixth review), and April 1, 1990 through March 31, 1991 (seventh review). Also, on December 12, 1994, the CIT directed the Department to re-examine its use of the most adverse (first-tier) best information available (BIA) for AOC International, Inc. in the seventh review in light of *Allied Signal Aerospace Co.,* v. *United States,* 996 F. 2d. 1185, (Fed. Cir. 1993).

Pursuant to the instructions of the CIT, the Department recalculated the VAT consistent with the methodology employed in Federal Mogul, for various companies for the fourth, sixth and seventh reviews. The Department also reconsidered its use of first-tier BIA for AOC for the seventh review, and determined that the application of first-tier BIA was reasonable. On April 19, 1995, the CIT affirmed our use of first-tier BIA in the seventh review. On April 25, 1995, the CIT affirmed our application of the VAT methodology in the fourth, sixth and seventh reviews. As a result of this application, we have determined that the weighted-average margins for each company are as follows:

Company	Period	Margin (percent)
Action Electronics Co., Ltd.	04/01/87–03/31/88	0.00
	04/01/89–03/31/90	0.54
	04/01/90–03/31/91	1.22
AOC International, Inc.	04/01/89–03/31/90	0.15
	04/01/90–03/31/91	23.89
Proton Electronic Industrial Co., Ltd.	04/01/87–03/31/88	0.09
	04/01/90–03/31/91	3.70
Tatung Company	04/01/87–03/31/88	0.87
	04/01/89–03/31/90	0.22
	04/01/90–03/31/91	0.19

Amended Final Results of Review

Based on our revised calculations, we have amended our final results of reviews for the period April 1, 1987 through March 31, 1988, April 1, 1989 through March 31, 1990, and April 1, 1990 through March 31, 1991. Because AOC filed an appeal with the United States Court of Appeals for the Federal Circuit concerning the final results for the fourth review, the Department will publish the rate for AOC in that review after the appeal has been resolved and the decision is final and conclusive. The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service for each exporter.

This notice serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This amendment of final results of review and notice are in accordance with section 751(f) of the Tariff Act of 1930 (19 U.S.C. 1673 (d) and 19 CFR 353.28(c).

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3756 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–412–803]

Industrial Nitrocellulose From the United Kingdom

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the respondent, the Department of Commerce (the Department) is

conducting an administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom. The review covers one manufacturer/exporter of the subject merchandise to the United States during the period July 1, 1993 through June 30, 1994. The review indicates the existence of dumping margins during the period.

As a result of this review, we have preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value (FMV). Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 21, 1996.

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

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1994, the Department published in the Federal Register (59 FR 33951) a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on INC from the United Kingdom (55 FR 28270). On July 29, 1994, the respondent, Imperial Chemical Industries PLC (ICI), requested an administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and section 353.22(a) of the Department's regulations (19 CFR 353.22(a)). We published the notice of initiation of the antidumping duty administrative review on August 24, 1994 (59 FR 43537), covering the period July 1, 1993 through June 30, 1994.

Applicable Statutes and Regulations

The Department is conducting this review in accordance with section 751 of the Act. Unless otherwise stated, all citations to the statutes and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

This review covers shipments of INC from the United Kingdom. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, which is produced from the reaction of cellulose with nitric acid. It is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. INC is currently classifiable under Harmonized Tariff Schedule (HTS) item number 3912.20.00. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The Department's written description remains dispositive. The scope of the antidumping order does not include explosive grade nitrocellulose, which as a nitrogen content of greater than 12.2 percent.

This review covers sales by ICI of INC from the United Kingdom entered into the United States during the period July 1, 1993 through June 30, 1994.

United States Price

In calculating United States price (USP), we used purchase price or exporter's sales price (ESP), both as defined in section 772 of the Act. The Department used purchase price when, prior to the date of importation, U.S. customers who were unrelated to the manufacturer purchased the merchandise through a U.S. sales agent that was related to the manufacturer. We determined that purchase price was the most appropriate determinant of USP for these sales based on the following factors:

(1) The merchandise was shipped directly from the manufacturer to the unrelated buyer without being introduced into the inventory of the respondent's related U.S. selling agent;

(2) This was the customary commercial channel for sales of this merchandise between the parties involved; and

(3) The respondent's related sales agent acted mainly as a processor of sales-related documentation and communication links with the unrelated U.S. customer.

Where all the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the functions themselves. *See Outokumpu Copper Rolled Products* versus *U.S.*, 829 F.Supp. 1371, 1378 (CIT 1993).

We calculated purchase price based on packed delivered prices. We made deductions for ocean freight, marine insurance, brokerage and handling, U.S. Customs duties and fees, and inland freight in accordance with section 772(d)(2) of the Act.

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a ''zero'' pre-tax dumping assessment.

The foreign exporters in the Federal Mogul case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude the Department from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct the Department to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the

price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to U.S. price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

For certain ESP sales, ICI failed to provide prices to the first unrelated purchaser, and to provide the data requested in the Department's further manufacturing questionnaire. As the best information available, we applied to these sales the rate of 11.13 percent, which is the highest rate from any review or the less-than-fair-value (LTFV) investigation.

Foreign Market Value

Based on a comparison of the volume of home market and third country sales, we determined that the home market was viable. Therefore, we calculated FMV based on home market sales in accordance with section 773(a)(1)(A) of the Act.

On December 16, 1994, the petitioner alleged that many of ICI's home market sales were made below the cost of production (COP). We conducted a sales-below-cost investigation because we determined that the petitioner's allegation presented reasonable grounds to believe or suspect that ICI made sales of subject merchandise in the home market at prices less than the COP during the review period. In accordance with 19 CFR 353.51(c), we calculated COP as the sum of reported materials, labor, factory overhead, and general expenses, and compared COP to home market prices, net of price adjustments.

As a result of our COP investigation, we found no below-cost-sales. We therefore did not disregard any home market sales as being below cost.

We disregarded samples, given to home market customers free of charge, as being outside the ordinary course of trade. *See Notice of Final Results of Antidumping Duty Administrative Reviews of Granular Polytrafluorethylene Resin from Japan 58 FR 50343 (Sept. 27, 1993).* We also excluded sales to related parties in calculating FMV. Under 19 CFR 353.45, the Department may disregard transactions between related parties if the price does not fairly reflect the usual price at which sales are made to unrelated parties (i.e., if the sales were not made at ''arm's length''). We performed an analysis of related party prices and found that they were not at arm's length. (*See* Memorandum to the File, Nov. 13, 1995.)

As in the LTFV investigation and the first administrative review, product comparisons were made on the basis of the following criteria: nitrogen percentage, viscosity rating, wetting agent type, cellulose source, physical form, and wetting agent percentage. Where there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. In those instances, we made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act.

We calculated FMV based on packed and either delivered or ex-works prices to unrelated customers in the United Kingdom. We made deductions for home market packing and inland freight, and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also adjusted FMV for certain billing adjustments.

When a commission was paid on a purchase price sale but not on the home market sale, we added to FMV the amount of the U.S. commission and deducted the lesser of either total home market selling expenses or the amount of the U.S. commission, in accordance with 19 CFR 353.56(b)(1).

In comparing home market sales to purchase price sales, we made a circumstance-of-sale adjustment to FMV for differences in credit terms by deducting home market credit expenses and adding U.S. credit expenses, in accordance with 19 CFR 353.56(a)(2).

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determined that the following margin exists for the period July 1, 1993 through June 30, 1994:

Manufacturer/Exporter	Margin (percent)
Imperial Chemical Industries PLC	1.48

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. *See* 19 CFR 353.38. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate shall continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacture of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate shall be 11.13 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3758 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–006]

Steel Jacks From Canada; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On October 16, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on steel jacks from Canada. The review covers two manufacturers/exporters of this merchandise to the United States, New-Form Manufacturing Co., Ltd. (NFM) and Seeburn Metal Products (Seeburn). The period covered is September 1, 1993 through August 31, 1994. The review indicates the existence of dumping margins for this period.

We gave interested parties an opportunity to comment on our preliminary results. We have adjusted NFM's margin for these final results, based on our analysis of the comments received and as a result of a changed treatment of home market consumption taxes, as explained below.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1995, the Department published in the Federal Register (60 FR 53584) the preliminary results of its 1993–94 administrative review of the antidumping finding on steel jacks from Canada (31 FR 7485, May 17, 1966).

Applicable Statute and Regulations

The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are multi-purpose hand-operated heavy-duty steel jacks, used for lifting, pulling, and pushing, measuring from 36 inches to 64 inches high, assembled, semi-assembled and unassembled, including jack parts, from Canada. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item number 8425.49.00. The HTS number is provided for convenience and Customs purposes. The written description remains dispositive.

This review covers two manufacturers/exporters, NFM and Seeburn. The period of review (POR) is September 1, 1993 through August 31, 1994.

Home Market Consumption Taxes

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price (USP) the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 988 F. 2d 1573, 1577 (Fed. Cir. 1993), (*Zenith*), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to USP by multiplying the adjusted USP by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a ''zero'' pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the Federal Circuit has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the GATT. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to USP, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to USP rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Seeburn

On February 3, 1995, the Department determined that the products exported by Seeburn were automobile tire jacks outside the scope of the antidumping finding on steel jacks from Canada (see February 3, 1995 Memorandum of Final Scope Ruling). Therefore, because Seeburn had no shipments of subject merchandise during the POR and Seeburn has never before been reviewed, we are assigning Seeburn the ''all others'' rate.

Analysis of Comments Received

We received comments from the petitioner, Bloomfield Manufacturing Co., Inc. (Bloomfield).

Comment 1: Bloomfield argues that the Department was correct in adding U.S. direct selling expenses (two commissions and credit expenses) to

foreign market value (FMV) since the U.S. sales were purchase price (PP) transactions. However, according to the petitioner, the Department used incorrect amounts for these expenses for certain U.S. sales.

Department's Position: In the preliminary review results, for certain U.S. sales we incorrectly divided per-unit, rather than total, expense amounts by the total quantity sold. Therefore, we agree with Bloomfield, and for these final results we have used the correct expense amounts for these sales.

Comment 2: The petitioner claims that the Department should have included in its analysis home market and U.S. sales of product 1020, and a missing U.S. sale of product 1120.

Department's Position: We agree with the petitioner. These sales were inadvertently omitted from the preliminary analysis. We have included them in these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist:

Review period	Manufacturer/Exporter	Margin (percent)
9/1/93–8/31/94	NFM	22.63
	Seeburn .	*28.35

*No shipments or sales subject to this review; because this firm has never been reviewed, the rate is the all others rate explained in (4) below.

Individual differences between the USP and FMV may vary from the above percentages. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act, and will remain in effect until the final results of the next administrative review:

(1) The cash deposit rates for the reviewed companies will be the rates listed above;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 28.35 percent, the ''all others'' rate established in the first final results of review published by the Department (52 FR 32957, September 1, 1987).

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). 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 terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 353.22.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3755 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

Continuous Electron Beam Accelerator Facility, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–087. *Applicant:* Continuous Electron Beam Accelerator Facility, Newport News, VA 23606. *Instrument:* Field Mapping Equipment for Hall A Quadrupole Magnets. *Manufacturer:* CEA/DSM, France. *Intended Use:* See notice at 60 FR 54337, October 23, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the applicant. The National Institutes of Health advises in its memorandum dated November 30, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3752 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

Florida International University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket Number: 95–092. *Applicant:* Florida International University, Miami, FL 33199. *Instrument:* Elemental Analyzer and Automated Interface Upgrade for IR Mass Spectrometer. *Manufacturer:* Europa Scientific, United Kingdom. *Intended Use:* See notice at 60 FR 54338, October 23, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated December 4, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3761 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

North Carolina State University, 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: 95–094. *Applicant:* North Carolina State University, Raleigh, NC 27695-7212. *Instrument:* Stopped-Flow Spectrophotometer, Model SX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 60 FR 57221, November 14, 1995. *Reasons:* The foreign instrument provides: simultaneous measurements across the entire white-light spectrum with high beam stability using a diode array detector. *Advice Received From:* National Institutes of Health, December 1, 1995.

The National Institutes of Health advises in its memorandum 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. 96–3759 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

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), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–041R. *Applicant:* University of South Florida, Department of Marine Sciences, 140 Seventh Avenue, South, St. Petersburg, FL 33701. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* Original notice of this resubmitted application was published in the FEDERAL REGISTER of June 13, 1995.

Docket Number: 95–121. *Applicant:* University of California, Santa Barbara, Engineering Materials Department, Bldg. 446, Room 112, Santa Barbara, CA 93106. *Instrument:* RF Reactive Atom Source. *Manufacturer:* Oxford Applied Research, United Kingdom. *Intended Use:* The instrument will be used to investigate the epitaxial growth of nitride films by molecular beam epitaxy. The objective of the investigation is to increase understanding of the growth and properties of nitride thin films in order to optimize film properties and fabricate novel electronic and optoelectronic devices based on nitrides. In addition, the instrument will be used for educational purposes in the course Materials 598: Graduate Research Study. *Application Accepted by Commissioner of Customs:* December 13, 1995.

Docket Number: 95–122. *Applicant:* The Pennsylvania State University, Department of Geosciences, 503 Deike Building, University Park, PA 16802. *Instrument:* Trace Gas Preconcentrator. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used in experiments to extract fossil air samples from polar ice cores and analyze the composition of these fossil air samples. The data from these experiments will provide the means of reconstructing the composition of the past atmosphere over the last 250,000 years. In addition, the instrument will be used to demonstrate the various techniques used during the acquisition of stable isotope ratios of various air samples in several geoscience courses. *Application Accepted by Commissioner of Customs:* December 14, 1995.

Docket Number: 95–123. *Applicant:* Carnegie Institution of Washington, Geophysical Laboratory, 5251 Broad Branch Road, NW, Washington, DC 20015-1305. *Instrument:* Upgrade of 252 Mass Spectrometer. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The items will be used to upgrade an existing mass spectrometer with the capability to analyze nanomole quantities of 0^2 gas. In addition, the instrument will be used for educational purposes in a very active post and predoctoral fellowship program. *Application Accepted by Commissioner of Customs:* December 14, 1995.

Docket Number: 95–124. *Applicant:* University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, CA 94720. *Instrument:* Electron Microscope, Model EM 300. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of metals, semiconductors, and ceramics to determine the arrangement of atoms in these materials, defects, and interfaces. The instrument will also be used in courses to teach advanced techniques in high-resolution electron microscopy, high-resolution electron holography, and energy-filtered electron microscopy to graduate students. *Application Accepted by Commissioner of Customs:* December 19, 1995.

Docket Number: 95–125. *Applicant:* Pennsylvania State University, Department of Physics, 104 Davey Laboratory, University Park, PA 16802. *Instrument:* Dilution Refrigerator/ Gradient Magnet System, Model KelvinOx^{100}. *Manufacturer:* Oxford Instruments, Inc., United Kingdom. *Intended Use:* The instrument will be used to study superconductivity and related quantum phenomena in ultrathin films of metals and high T_c oxide superconductors. The ultrathin films of metals will be prepared by quench deposition and measured *in situ* without taking the film outside the ultrahigh vacuum and low temperature environment so that contamination and annealing of the sample can be avoided. In addition, the instrument will be used to train future physicists and materials scientists through Ph.D. and M.S. degree programs. *Application Accepted by Commissioner of Customs:* December 21, 1995.

Docket Number: 95–126. *Applicant:* University of Florida, Department of Chemistry, PO Box 117200, Gainesville, FL 32611-7200. *Instrument:* Electron Paramagnetic Resonance Spectrometer, Model ESP 300E-10/2.7. *Manufacturer:* Bruker Analytische Messtechnik GmbH, Germany. *Intended Use:* The instrument will be used for studies of the local structure of the transient paramagnetic centers in diverse materials and the kinetics of electron and energy transfer. This will be done by studying relaxation time T_1 and T_2 and coherent quantum beats with 10 ns time-resolution. The range of materials includes but is not limited to: organic electron and energy transfer couples, organic and inorganic thin films, polymers, biological macromolecules, organic and inorganic conductors and semiconductors. In addition, the instrument will be used in the course CHM 6580 special topics in physical chemistry to train students in state-of-the-art techniques in modern magnetic resonance. *Application Accepted by Commissioner of Customs:* December 21, 1995.

Docket Number: 95–127. *Applicant:* Armstrong Laboratory, 2509 Kennedy Circle, Brooks AFB, TX 78235-5118. *Instrument:* Electron Microscope, Model CM 120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for analysis of water, air, and bulk samples for the presence of asbestos and evaluation of biological materials in support of in-house research. Experiments will be conducted using animal models of human disease or conditions to determine the harmful effects of lasers, microwaves, radiation, and to evaluate the efficacy of protective devices. *Application Accepted by Commissioner of Customs:* December 27, 1995.

Docket Number: 95–128. *Applicant:* University of Maryland at College Park, Microbiology Department, Building #231, College Park, MD 20742. *Instrument:* Extended SpectraKinetics Photomultiplier, Model SK.1E. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used to modify an existing spectro-fluorimeter in order to monitor the kinetics of a variety of different biochemical reactions, all of which involve interactions of proteins with other proteins or with a variety of smaller substrates. The instrumentation will make it possible to monitor the time course of such reactions by monitoring the fluorescence intensities of either the proteins involved or the small substrates. The goal of this research is to understand the interactions among a set of proteins that together enable bacteria to control their swimming movements. *Application Accepted by Commissioner of Customs:* December 27, 1995.

Docket Number: 95–129. *Applicant:* Massachusetts Institute of Technology, Department of Chemistry, 77 Massachusetts Avenue, Cambridge, MA 02129. *Instrument:* Rapid Scanning Diode Array, Model MG 6040. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used for the study of reactions of reduced iron systems with oxygen using stopped flow visible spectroscopy. In the experiments, an anaerobic solution of a diferrous compound (enzyme or model complex) is mixed rapidly in a closed system with a solution containing dioxygen. The changes which take place are followed by observing changes in the absorbance of light at different wavelengths. The objective of these experiments is to understand better the reaction cycle of this very interesting and important enzyme system and to tune the reactivity of relevant small molecule models to do useful chemistry. *Application Accepted by Commissioner of Customs:* December 27, 1995.

Docket Number: 95–130. *Applicant:* University of Wisconsin-Madison, Integrated Microscopy Resource, 1525 Linden Drive, Madison, WI 53706. *Instrument:* Upgraded Pulse Compressor, Model DMP-100. *Manufacturer:* Microlase Optical Systems Ltd., United Kingdom. *Intended Use:* The instrument will be used with an existing laser that serves as a fluorescence excitation source for the study of the dynamics of the internal cellular architecture of living biological specimens. Cells and developing embryos will be examined with the enhanced microscope system over extended periods of time in order to study the changes in internal structure that occur during development. In addition, the instrument will be used for educational purposes in courses in advanced microscopy techniques for undergraduates, graduate students and visiting academic research workers. *Application Accepted by Commissioner of Customs:* December 29, 1995.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3760 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

[C–201–003]

Ceramic Tile from Mexico; Amended Revocation of the Countervailing Duty Order

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

ACTION: Amended Revocation of the Countervailing Duty Order.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit (the CAFC) held that the Department of Commerce (the Department) lacks statutory authority to impose countervailing duties on dutiable goods imported by Mexico after April 23, 1985. Pursuant to this decision, on January 31, 1996, the Court of International Trade (CIT) ordered the Department to revoke the countervailing duty order on ceramic tile from Mexico effective April 23, 1985, and to instruct the U.S. Customs Service to refund any estimated countervailing duties at issue in this case that were deposited by plaintiffs during the period January 1, 1986 through December 31, 1986. In accordance with the CIT's order, we are hereby amending the revocation of the countervailing duty order on ceramic tile from Mexico to be effective April 23, 1985, instead of January 1, 1995 (60 FR 40568; August 9, 1995).

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill at the Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1989 (54 FR 19930), the Department published the final results of administrative review of the countervailing duty order on ceramic tile from Mexico, covering the period January 1, 1986, through December 31, 1986. (54 FR 19930) On May 5, 1994, the CIT upheld the Department's final results of administrative review with respect to the issue whether the Department had authority to impose countervailing duties on ceramic tile from Mexico after April 23, 1985 when Mexico was designated as a ''country under the agreement,'' pursuant to its commitments under a bilateral agreement, Understanding between the United States and Mexico Regarding Subsidies and Countervailing Duties. However, the CIT remanded the case to

the Department to recalculate the country-wide countervailing duty rate. *Ceramica Regiomontana S.A., et al.* v. *United States,* Court No. 89–06–00323, Slip Op. 94–74 (May 5, 1994). On September 14, 1994, the CIT affirmed the Department's redetermination upon remand. Slip Op. 94–142. On September 6, 1995, the CAFC reversed the CIT's decision regarding the issue of whether the Department had authority to impose duties on entries of subject merchandise made after Mexico became a ''country under the Agreement.'' *Ceramica Regiomontana S.A., et al.* v. *United States,* 64 F.3d 1579 (Fed. Cir. 1995). The CAFC held that, absent an injury determination by the International Trade Commission, the Department lacks statutory authority to impose countervailing duties on dutiable goods imported by Mexico after April 23, 1985.

Accordingly, the CIT ordered the Department to revoke the 1982 Order effective April 23, 1985. According to that order, the Department is to ''instruct the U.S. Customs Service to refund any estimated countervailing duties that were deposited with the U.S. Customs Service during the period January 1, 1986 through December 31, 1986 with respect to ceramic tile from Mexico manufactured by (1) Ceramica Regiomontana, S.A.; (2) Ceramicas Y Pisos Industriales De Culiacan, S.A. de C.V.; and (3) Industrias Intercontinental, S.A., covered by entries that remained unliquidated at the close of business on February 2, 1995, together with interest calculated as provided in 19 U.S.C. § 1677g.'' Slip Op. 96–28.

Amended Revocation

Pursuant to the CIT's order of January 31, 1996, the Department is hereby amending the revocation of the countervailing duty order on ceramic tile from Mexico to be effective for all entries made on or after April 23, 1985. We will instruct the U.S. Customs Service to refund cash deposits for entries of this merchandise manufactured by (1) Ceramica Regiomontana, S.A.; (2) Ceramicas Y Pisos Industriales De Culiacan, S.A. De C.V.; and (3) Industrias Intercontinental, S.A., during the period January 1, 1986 through December 31, 1986. Certain other entries of the subject merchandise are the subject of related ligitation. Upon issuance of appropriate court orders in those cases, we will issue liquidation instructions covering those entries.

This notice is in accordance with section 516(a)(e) of the Act.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3757 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 020696E]

Marine Mammals

Pursuant to provisions of the Marine Mammal Protection Act, as amended, (16 U.S.C. 1361 *et seq.*, specifically, 1374(c)(3)(C)) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216.45), letters of confirmation that authorize level B harassment of marine mammals in the wild under authority of the General Authorization for Scientific Research, have been issued by the National Marine Fisheries Service. Level B harassment, as defined in 50 CFR 216.3, means any act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to migration, breathing, nursing, breeding, feeding, or sheltering but that does not have the potential to injure a marine mammal or marine mammal stock in the wild. The following letters of confirmation were issued to the individuals or organizations from November 1994 through calendar year 1995.

Dr. John G. Morris, Department of Biological Sciences, Florida Institute of Technology, 150 West University Boulevard, Melbourne, FL 32905 (GA No. 1);

Dr. David J. St. Aubin, Director, Research and Veterinary Services, Mystic Marinelife Aquarium, 55 Coogan Blvd., Mystic, CT 06355–1997 (GA No. 2);

Ms. Susan L. McAlear Baker, 11061 Bootjack Court, North Potomac, Maryland 20878 (GA No. 3);

Mr. Stephen T. Viada, Staff Scientist, Continental Shelf Associates, Inc., 759 Parkway Street, Jupiter, FL 33477–9596 (GA No. 4);

Dr. Denise Herzing, Florida Atlantic University, and Wild Dolphin Project, P.O. Box 8436, Jupiter, FL 33468 (GA No. 10);

Dr. John E. Reynolds, III, Professor of Marine Science, Eckerd College, 4200 54th Avenue, South, St. Petersburg, FL 33711 (GA No. 5);

Dr. John H. Schacke, Science Director, The Dolphin Project, 110 Keystone Court, Athens, GA 30605–4942 (GA No. 6);

Dr. Whitlow W.L. Au, Chief Scientist, Marine Mammal Research Program, Hawaii Institute of Marine Biology, University of Hawaii, P.O. Box 1106, Kailua, HI 96734 (GA No. 11);

Dr. James T. Harvey, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039–0450 (GA No. 7);

Nancy Black, Pacific Cetacean Group, P.O. Box 52001, Pacific Grove, CA 93950 (GA No. 8);

Mr. W. Mark Swingle, Virginia Marine Science Museum, 717 General Booth Blvd., Virginia Beach, VA 23451 (GA No. 9);

Mr. Patrick J. Miller, Schiverick House, Woods Hole Oceanographic Institution, Woods Hole, MA 02543 (GA No. 12);

Dr. Ken Marten, Director of Research, Project Delphis, Earthtrust, 25 Kaneohe Bay Drive, Kailua, HI 96764 (GA No.13);

Dr. Hidehiro Kato, Head of Large Cetacean Section, National Research Institute of Far Seas Fisheries, c/o Mr. Joji Morishita, Embassy of Japan, 2520 Massachusetts Ave., NW., Washington, D.C. 20008 (GA No. 14);

Mr. James M. Brady, Superintendent, Glacier Bay National, Park and Preserve, National Park Service, P.O. Box 140, Gustavus, AK 99826–0140 (GA No. 15);

Dr. David E. Bain, Friday Harbor Laboratories, University of Washington, 620 University Road, Friday Harbor, WA 98250 (GA No. 16);

Dr. Laela S. Sayigh, Assistant Professor, Biological Sciences and Center for Marine Science Research, University of North Carolina, Wilmington, NC 28403 (GA No. 17);

Ms. Daniela M. Feinholz, Pacific Cetacean Group, P.O. Box 378, Moss Landing, CA 95039 (GA No. 18);

Dr. James R. Gilbert, Professor and Chairperson, Department of Wildlife Ecology, University of Maine, Orono, ME 04469–5755 (GA No. 19); and

Dr. Michael Tillman, Science and Research Director, National Marine Fisheries Service, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038 (GA No. 20).

These authorizations and related documents are available for review upon written request or by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289).

For further information contact: Ruth Johnson (F/PR1), Permits Division,

Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 (301/713–2289).

Dated: February 7, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3828 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Trademark Processing

ACTION: Notice of proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), by the Patent and Trademark Office (Office) in the performance of its statutory functions of examining, registering and maintaining trademarks, as required by the Trademark Act of 1946, as amended, 15 U.S.C. 1051, et seq.

DATES: Written comments must be submitted on or before April 22, 1996.

ADDRESSES: Direct all written comments to Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Lynne G. Beresford, Trademark Legal Administrator, at the Office of the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Va. 22202–3513 or by facsimile transmission to (703) 308–7220.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Patent and Trademark Office (Office) administers the Trademark Act of 1946, as amended, 15 U.S.C. 1051 et seq., which provides for the Federal registration of trademarks and service marks. Any individual or business owning a valid trademark or service mark that is both used in a type of commerce which can be controlled by Congress, and used in connection with goods or services, may apply to register its mark. A registration is valid for ten years and renewable for like periods. Federal registration is not necessary in order to use a mark, nor is registration required to obtain rights in a mark. Registration does provide certain procedural benefits, such as access to Federal court. Information collected by the Office is required by the statute or the rules and is used by the Office to determine the eligibility of trademarks or service marks for registration, to issue registrations, and to maintain the Register.

II. Method of Collection

Mail or facsimile transmission.

III. Data

OMB Number: 0651–0009.

Title of form	Form No(s).	Estimated time for response	Est. annual burden hours	Est. annual responses
Application for Trademark	1478, 4.8 & 4.9	1 hour	165,559	165,559
Amendment to Allege Use	1579	15 minutes	1,222	4,882
Statement of Use (SOU)	1580	15 minutes	4,626	18,505
Extension of Time to File SOU	1581	15 minutes	8,438	33,750
Opposition	4.17 & 4.17(a)	1 hour	5,248	5,248
Totals			185,090	227,944

Type of Review: Regular.

Affected Public: The forms are used by trademark owners and trademark practitioners. However, use of the forms is not mandatory and many law firms and corporations develop their own forms. Information collected is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. This information is important to the public, since both common law trademark owners and Federal trademark registrants must actively protect their own rights.

Estimated Total Annual Cost: Estimated costs to the private sector are $11,105,400.

Private sector costs were calculated using a composite rate of paralegal and attorney time. The paralegal hourly rate was calculated to be $11 per hour. The professional rate was calculated to be $108 per hour. In house costs were estimated to be $142,853.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 14, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–3823 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 21–22 February 1996.

Time of Meeting: 0800–1700, 21 February 1996; 0800–1200, 22 February 1996.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's (ASB) 1996 Summer Study on ''Army Simulation Implementation and Use'' will meet for briefings and discussions on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically paragraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–3873 Filed 2–20–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10a(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB), Special Study Panel on Reengineering the Acquisition and Modernization Processes of the Institutional Army.

Date of Meeting: 27 February 1996.

Time: 1000–1600 hours.

Place: Room 2D731 Pentagon, Washington, DC.

Agenda: The Army Science Board Special Study Panel on Reengineering the Acquisition And Modernization Processes of the Institutional Army will meet to discuss the current status of Army Modernization and to discuss plans to reengineer the Acquisition and Modernization processes. Discussion will include the current shortfalls in modernization and the attendant vulnerabilities to the U.S. Army. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Ms. Michelle Diaz, may be contacted for further information at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–3872 Filed 2–20–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Savannah River Operations Office; Interim Management of Nuclear Materials at the Savannah River Site

AGENCY: Department of Energy.

ACTION: Supplemental Record of Decision.

SUMMARY: The U.S. Department of Energy (DOE) prepared a final environmental impact statement (EIS), ''Interim Management of Nuclear Materials'' (DOE/EIS–0220, October 20, 1995), to assess the potential environmental impacts of actions necessary to manage nuclear materials at the Savannah River Site (SRS), Aiken, South Carolina, until decisions on their ultimate disposition are made and implemented.

On December 12, 1995 (60 FR 65300), DOE issued a Record of Decision (ROD) and Notice of Preferred Alternatives on the interim management of several categories of nuclear materials at the SRS. DOE is now issuing its decisions on actions that will stabilize two additional categories of materials at the SRS, which present environment, safety and health vulnerabilities in their current storage condition or may present vulnerabilities within the next 10 years. The decisions on the stabilization of two additional categories of nuclear materials, neptunium-237 solution and targets, and H-Canyon plutonium-239 solutions, are not being made at this time.

Mark-16 and Mark-22 Fuels

DOE has decided to stabilize the Mark-16 and Mark-22 fuels by processing them in the SRS canyon facilities and blending down the resulting highly enriched uranium (HEU) to low enriched uranium (LEU). The LEU solution will be stored or converted to an oxide in the FA-Line. Neptunium-237 separated during the stabilization processing of the Mark-16 and Mark-22 fuels will be stabilized with the other SRS neptunium. The Department is still considering which of the management options for neptunium to implement.

Other Aluminum-Clad Targets

DOE has decided to stabilize the ''other aluminum-clad targets'' by dissolving them in the SRS canyon facilities and transferring the resulting nuclear material solution to the high level waste tanks for future vitrification in the Defense Waste Processing Facility (DWPF).

FOR FURTHER INFORMATION CONTACT: For further information on the interim management of nuclear materials at the SRS or to receive a copy of the Final EIS, the Facility Utilization Strategy study, the initial ROD and Notice, or this supplemental ROD contact: Andrew R. Grainger, NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, P.O. Box 5031, Aiken, South Carolina 29804–5031, (800) 242–8259, Internet: drew.grainger@srs.gov.

For further information on the DOE National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Department of Energy (DOE) prepared the final environmental impact statement (EIS), ''Interim Management of Nuclear Materials'', (DOE/EIS–0220, October 20, 1995), to assess the potential environmental impacts of actions necessary to manage nuclear materials at the Savannah River Site (SRS), Aiken, South Carolina, until decisions on their ultimate disposition are made and implemented.

The Final EIS identified continued storage (i.e., No Action) as the preferred alternative for the Mark-16 and Mark-22 fuels and the ''other aluminum-clad targets'' until DOE could complete additional reviews of costs, schedules, and technical uncertainties associated with dry storage techniques for failed fuel.

On December 12, 1995 (60 FR 65300), DOE issued a Record of Decision (ROD) and Notice of Preferred Alternatives on the interim management of several categories of nuclear materials at the SRS. At that time, DOE announced new preferred alternatives for the management of the Mark-16 and Mark-22 fuels (processing and blending down to LEU) and the ''other aluminum-clad targets'' (processing and storage for vitrification in the DWPF). In addition, DOE indicated that neptunium-237 solution and targets would be stabilized through either processing to oxide or vitrification, and that plutonium-239 solutions in H-Canyon would be stabilized through processing to metal, processing to oxide, or vitrification. For each of these material categories, only one stabilization method will be implemented. The stabilization alternative chosen is dependent upon whether the materials would be stabilized in the SRS's F- or H-Canyon, as discussed in a DOE staff study, Facility Utilization Strategy for the Savannah River Site Chemical Separation Facilities (December 1995). DOE is still considering the facility utilization strategy study and other related information.

II. Alternatives Evaluated in the Final EIS

DOE evaluated the following alternatives for managing the Mark-16 and Mark-22 fuels and the other aluminum-clad targets at the SRS: (A) Continuing Storage (i.e., ''No Action'' within the context of NEPA), (B) Processing to Oxide, (C) Blending Down to Low Enriched Uranium, (D) Processing and Storage for Vitrification in the DWPF, and (E) Improving Storage. The following is a brief description of the alternatives evaluated.

A. Continuing Storage (No Action)

This alternative was evaluated for the fuels and targets considered in this supplemental ROD. Under this alternative, DOE would continue to store the materials in their current physical and chemical form. DOE would relocate, repackage, or re-can materials stored in basins to consolidate the material or to respond to an immediate safety problem. Periodic sampling, destructive and non-destructive examination, weighing, visual inspection and similar activities would continue in order to monitor the physical and chemical condition of the nuclear material. Repackaging would include removing materials from a damaged storage container and placing them in a new container or placing the damaged container in a larger container. Re-canning would primarily entail placing damaged or degraded fuel or targets in metal containers, sealing the containers, and keeping them in wet storage.

Many activities would be required by DOE irrespective of the management alternative used. For example, DOE would maintain facilities in good working condition and would continue to provide utilities (water, electricity, steam, compressed gas, etc.) and services (security, maintenance, fire protection, etc.) for each facility. Training activities would ensure that personnel maintain the skills necessary to operate the facilities and equipment. DOE would continue with ongoing projects to alleviate facility-related vulnerabilities associated with storage of the materials and projects to upgrade or replace aging equipment (ventilation fans, etc.).

B. Processing to Oxide

For purposes of this supplemental ROD, this alternative is only relevant to the Mark-16 and Mark-22 fuels. DOE would dissolve and process the Mark-16 and Mark-22 fuels containing HEU in the H-Canyon and would convert the resulting HEU solution to HEU oxide. To provide conversion capability, DOE would complete the partially constructed Uranium Solidification Facility (USF) in H-Canyon. The HEU oxide would be packaged and stored in a vault in USF.

C. Blending Down to Low Enriched Uranium

This alternative is only relevant to the Mark-16 and Mark-22 fuels. Mark-16 and Mark-22 fuels containing HEU would be transported to H-Canyon and/or F-Canyon by rail casks, and dissolved in nitric acid. If processed through F-Canyon, due to criticality constraints, the dissolved fuel material would be blended down to LEU prior to separation from fission products and other materials. If processed through H-Canyon, the dissolved fuel material would be separated from fission products and other materials and subsequently blended down to LEU. In either case, the HEU would be blended at the SRS with existing depleted or natural uranium to produce LEU solutions. The LEU solutions would be stored or converted to an oxide using FA-Line. The oxide would be stored in drums in existing facilities or in a new warehouse to be constructed at the SRS. Decisions on a potential new warehouse at the SRS will be made after or coincident with the ROD for the disposition of surplus HEU. The Disposition of Surplus Highly Enriched Uranium Final EIS is expected to be issued in mid 1996.

D. Processing and Storage for Vitrification in the DWPF

This alternative could apply to both the Mark-16 and Mark-22 fuels and the other aluminum-clad targets considered in this supplemental ROD. DOE would perform research and development work to develop a method for chemically adjusting solutions that would result from the dissolution of the Mark-16 and Mark-22 fuels, and the other aluminum-clad targets in order to transfer them to the high level waste tanks in F- or H-Area. The research and development work would be to ensure nuclear criticality safety due to the large amounts of uranium-235 contained in the fuels, and to evaluate the effects of the nuclear materials on the systems and facilities used to store and treat the liquid high level waste.

Upon completion of the studies, DOE would transport the fuel and targets stored in the water-filled basins by rail casks to F- or H-Canyon and would dissolve them in nitric acid. The resulting solutions from dissolution would be chemically adjusted and transferred to the high level waste tanks via underground pipelines. The solutions would be mixed with the existing volume of high level waste stored in the F- and H-Area tanks. The bulk of the radioactivity in the solutions would eventually be immobilized in borosilicate glass by the DWPF. The glass would be contained within stainless steel canisters that would be stored in a facility adjacent to the DWPF pending geologic disposal by DOE. The bulk of the liquid would be immobilized by the Saltstone facility into a grout containing very low levels of radioactivity. The grout would be poured into concrete vaults located at the Saltstone facility.

E. Improving Storage

This alternative could be applicable to both the Mark-16 and Mark-22 fuels and the other aluminum-clad targets. For this alternative, DOE would remove the Mark-16 and Mark-22 fuels and the other aluminum-clad targets from the basins and place them in dry storage. Because of technical uncertainties (e.g., potentially pyrophoric hydrides of uranium, elimination of potential reactive material) associated with the dry storage of failed fuel and targets, DOE would perform additional research to demonstrate the feasibility of drying and placing the materials into canisters for storage. Work related to the dry storage of LEU and commercial spent nuclear fuel has already been done in the United States and other countries. This work has not been focused on the storage of aluminum-clad HEU fuels. In conjunction with this work, DOE would design and construct a Dry Storage Facility at SRS.

A typical dry storage facility would be a Modular Dry Storage Vault. This facility would consist of four major components: a receiving/unloading area, fuel storage canisters, a shielded container handling machine, and a modular vault for storing the fuel in storage canisters. As a variation, canisters could be stored in dry storage casks rather than a vault. The degraded fuel and target materials would be removed from the basins and dried, canned or placed directly in canisters; the cans or canisters would be filled with an inert gas to inhibit further corrosion; if cans were used they would be loaded into storage canisters. This process could be varied as dictated by the condition of the material. After the fuel or targets were loaded in a canister, a machine would transport the canister to the modular storage vault. The vault would consist of a large concrete structure with an array of vertical tubes to hold the canisters. The canister

transport machine would move into the vault and load the canister into a storage tube. A shielded plug would be placed on top of the tube. The transport machine and the vault storage tubes would be heavily shielded to reduce the effects of radiation from the canister. To use dry storage casks, the machine would transport the canister to a cask (horizontal or vertical) and discharge the canister into the cask, and then the cask would be sealed.

DOE evaluated the potential environmental impacts associated with two variations for implementing this alternative. The first involved the use of a traditional project schedule for the design and construction of the Dry Storage Facility, estimated to take about ten years. The second was an accelerated schedule for design and construction, estimated to take about five years. Until the Dry Storage Facility was completed, DOE would store the materials in existing basins, as described under Continued Storage (No Action).

III. Environmental Impacts of Alternatives

The Final EIS for the Interim Management of Nuclear Materials analyzed the potential environmental impacts that could result from implementation of the candidate management alternatives. DOE has concluded that there would be minimal environmental impact from implementation of any of the alternatives for any of the material groups in the areas of geologic resources, ecological resources (including threatened or endangered species), cultural resources, aesthetic and scenic resources, noise, and land use. Impacts in these areas would be limited because facility modifications or construction of new facilities would occur within existing buildings or industrialized portions of the SRS. DOE anticipates that the existing SRS workforce would support any construction projects and other activities required to implement any of the alternatives. As a result, DOE expects negligible socioeconomic impacts from implementation of any of the alternatives.

Management alternatives requiring the use of the large chemical separations facilities (the canyons) would have greater environmental impacts (e.g., radiological, waste generation) during the time dissolving, processing or conversion activities are underway than when these facilities are storing nuclear materials. After materials have been stabilized, impacts of normal facility operations related to management of those materials would decline, and potential impacts of accidents associated with those materials would be reduced with certain kinds of accidents eliminated (e.g., solution spills or releases). Potential health effects from normal operations from any of the alternatives, including those involving the operation of the canyon facilities, would be low and well within regulatory limits. Alternatives requiring the use of the canyons are: Processing to Oxide, Blending Down to Low Enriched Uranium, and Processing and Storage for Vitrification in the DWPF.

The Improving Storage alternatives generally have lower impacts in the near term because they involve only heating, drying and repackaging the nuclear materials. These alternatives involve the use of new facilities, such as a Dry Storage Facility. New facilities would incorporate improved designs for remote handling, shielding, containment, air filtration, etc.; these improvements could reduce worker exposures and releases to the environment below levels associated with existing storage basins and vaults.

Annual impacts from normal operations and potential accidents associated with nuclear material storage would be reduced after material stabilization alternatives are implemented. Due to the substantial influence actively operating facilities have upon potential environmental impacts, stabilization alternatives requiring longer periods of time to complete are estimated to have relatively higher impacts from normal operation and potential accidents than alternatives requiring less time to complete.

Continuing Storage (or ''No Action'') alternatives would result in low annual environmental impacts, but the impacts would continue for an indefinite period of time. Stabilization alternatives typically would result in slightly higher annual environmental impacts than ''No Action'' in the near-term, but upon completion of the stabilization action would result in lower annual impacts. Under Continuing Storage alternatives, no actions would be taken to chemically or physically stabilize the storage conditions and reduce the potential for accidents. All of the stabilization alternatives, upon completion of the actions required, would reduce the potential for accidents and associated consequences. Several of the stabilization alternatives would involve a short-term increase in the risks from accidents until the required actions are completed.

Emissions of hazardous air pollutants and releases of hazardous liquid effluents for any of the alternatives would be within applicable federal standards and existing regulatory permits for the SRS facilities. Similarly, high level liquid waste, transuranic waste, mixed hazardous waste and low level solid waste generated by implementation of any of the alternatives would be handled by existing waste management facilities. All of the waste types and volumes are within the capability of the existing SRS waste management facilities for storage, treatment or disposal.

SRS facilities that will be used to stabilize and store the nuclear materials incorporate engineered features to limit the potential impacts of facility operations to workers, the public and the environment. All of the engineered systems and administrative controls are subject to DOE Order requirements to ensure safe operation of the facilities. No other mitigation measures have been identified; therefore DOE need not prepare a Mitigation Action Plan.

IV. Other Factors

In addition to comparing the environmental impacts of implementing the various alternatives, DOE considered other factors in making the decisions announced in this supplemental ROD. These other factors included: (1) the need to construct and operate modified or new facilities (e.g., a Dry Storage Facility) and the reliability of old facilities, (2) nonproliferation concerns, involving potential impacts to U.S. nonproliferation policy as affected by both the operation of certain facilities and the attractiveness of the managed nuclear materials for potential weapons use, (3) implementation schedules, (4) technology availability, (5) labor availability and core competency, (6) level of custodial care for the continued safe management of the nuclear materials, (7) cost and budget considerations, (8) technical uncertainty (i.e., dry storage of failed HEU fuels), and (9) comments received during the scoping period for the EIS on the Interim Management of Nuclear Materials, and comments received on the Draft and Final EISs.

V. Environmentally Preferable Alternatives

As described in the Final EIS for Interim Management of Nuclear Materials, certain management alternatives are expected to result in lower environmental impacts than others. However, a single alternative was rarely estimated to have lower impacts for all environmental factors evaluated by DOE. For example, an

alternative might be expected to result in lower releases of hazardous pollutants to air or water than the other alternatives, but might generate slightly higher amounts of radioactive waste. DOE reviewed the environmental impacts estimated for the alternatives evaluated for the Mark-16 and Mark-22 fuels and the other aluminum-clad targets, and identified the following as the environmentally preferable alternative for each material category. The health and environmental effects from any of the alternatives are all low and well within regulatory limits.

Mark-16 and Mark-22 Fuels and Other Aluminum-Clad Targets—Improving Storage (Accelerated Schedule)

Improving Storage, on an accelerated schedule, is the environmentally preferable alternative for the fuels and targets. This alternative is estimated to result in the lowest radiological doses to the offsite public with doses to the SRS workers comparable to the other alternatives; has the lowest estimates of air and water emissions; and, results in the generation of the least amount of high level, transuranic, mixed, and low level waste.

VI. Decision

As indicated in the ROD and Notice issued December 12, 1995, DOE received several comments from stakeholders on issues related to the interim management of nuclear materials at the SRS. These comments dealt principally with: (1) The method to be used for the management of spent nuclear fuel, and (2) the operational status and potential plans for the F- and H-Canyon processing facilities. Subsequent to issuing the initial ROD and Notice, DOE received a letter from the Environmental Protection Agency (EPA), Region IV, on the Final EIS offering additional comments for consideration in making the decisions on the stabilization of the SRS nuclear materials. EPA identified, as did the Final EIS, processing to oxide as the preferred alternative for stabilizing the neptunium-237 and plutonium-239 materials. EPA stated that the principal advantage over the environmentally preferable vitrification alternative is that shipping nuclear material solutions across the SRS would not be required. For the Mark-16 and Mark-22 fuels, EPA recommended that the fuels be blended to LEU and processed to an oxide. EPA recommended that DOE proceed with the construction of a dry storage facility on an accelerated basis for storing the other aluminum-clad targets because this alternative would take a shorter time to implement.

After careful consideration of the issues and public comments, along with the analyses of environmental impacts and other factors, DOE has made the following decisions for the interim management of Mark-16 and Mark-22 fuels, and other aluminum-clad targets:

Mark-16 and Mark-22 Fuels—Blending Down to Low Enriched Uranium

DOE has decided to stabilize the Mark-16 and Mark-22 fuels through processing in the canyon facilities, blending down the HEU to LEU. DOE will dissolve depleted uranium oxide in the FA-Line as necessary to blend down the HEU to LEU.

DOE will remove the Mark-16 and Mark-22 fuels from the water-filled basins in which they are stored and transport them to the canyon facilities using the existing SRS rail casks. All of the cask shipments will be confined within the boundaries of the SRS, occurring near the center of the site. The fuel assemblies will be dissolved in nitric acid. If processed through the F-Canyon, the resulting HEU solution will be blended down to LEU and then separated from fission products and other materials. If processed through the H-Canyon, the resulting HEU solution from dissolution will be separated from fission products and other materials and then blended down to LEU. DOE will transfer depleted or natural uranium solutions to the canyon facilities for blending with the HEU from the fuels. The LEU solution will be stored or converted to an oxide in FA-Line. The LEU solution or oxide will be stored at the SRS until disposition decisions are made. Dependent upon the timing of future DOE decisions, the uranium from the Mark-16 and Mark-22 fuels could be dealt with in conjunction with the disposition of other HEU (by commercial sale, etc.).

Neptunium-237 will be separated from the fuel during the stabilization process. This material will be managed in conjunction with the other neptunium at the SRS. The Department is still considering which of the management options for neptunium-237 and plutonium-239 to implement.

DOE selected this stabilization alternative for several reasons. Stabilization of the fuels with their removal from basin wet storage and elimination of the wet storage vulnerabilities through processing can be accomplished two to seven years earlier than the improved storage alternative. Improving storage on an accelerated schedule is the environmentally preferable alternative. Blending down to LEU reduces the HEU inventory and eliminates nonproliferation and security issues associated with the indefinite storage of HEU fuel which is not self-protecting. (Self-protecting fuel is highly radioactive, so that substantial shielding (or distance) is required to prevent unhealthy radiological effects from handling or storage conditions; non self-protecting fuel could be contact-handled and therefore is of greater theft or sabotage concern.) Cost and cost uncertainties also have played a significant role in the selection of this stabilization action. Near-term annual costs to process and blend down the HEU to LEU are estimated at $20 million to $95 million less than for the improved storage alternatives. Substantial uncertainty exists concerning the disposition of dry-stored (improved storage) HEU spent fuel, while less uncertainty exists with the stabilization of the fuels through blending down to LEU and the storage and disposition of the resulting waste through the DWPF. Life-cycle cost evaluations favor blending down to LEU ($38 million to greater than $1 billion advantage)[Facility Utilization Strategy, Attachment 2]. Although potential safety, health and environmental impacts evaluated in the Final EIS are lower in the interim period for the improved storage alternatives than the selected blending down to LEU alternative, the potential impacts from any of the stabilization alternatives are shown to be very low and well below any regulatory or management control limits. It is anticipated, however, that the secondary impacts associated with the eventual or periodic need to handle stored spent fuel for management or disposal purposes may increase over time the potential impacts of the improved storage alternatives.

Other Aluminum-Clad Targets—Processing and Storage for Vitrification in the DWPF

DOE has decided to implement the processing and storage for vitrification in the DWPF alternative for the —other aluminum-clad targets— stored in the reactor disassembly basins at the SRS. DOE will remove the targets stored in the reactor disassembly basins and transport them to the canyon facilities by SRS rail casks. The targets will be dissolved in a canyon, the resulting solutions chemically adjusted and transferred to the adjacent underground high level waste tanks. The solutions will be stored in the high level waste tanks until they are processed in conjunction with the other high level waste in the tanks. The high level waste will eventually be vitrified in the DWPF. The resulting stainless steel

canisters of glass produced from the DWPF process will be stored in a facility adjacent to the DWPF pending geological disposal by DOE.

DOE selected this stabilization alternative for several reasons. These targets are in a variety of physical forms and shapes and contain no or small amounts of fissile materials; primarily they contain such materials as thorium, cobalt, and thulium. Their dissolution and transfer for vitrification in the DWPF will place these physically and chemically diverse materials into a uniform medium suitable for future emplacement in a geologic repository. Improved storage (the environmentally preferable alternative) would require the development of one or more packaging configurations for repository emplacement. Although vitrification in the DWPF will not occur for several years, processing and storage for vitrification in the DWPF can be implemented one to six years earlier than the improved storage alternatives. This will remove the targets in their deteriorating condition from the reactor disassembly basins, precluding further release of radioactivity to the basin water. Near-term costs are considerably less for the processing alternative as compared with the improved storage alternative. As with the Mark-16 and Mark-22 fuels, potential safety, health and environmental impacts for the improved storage alternatives are lower than the selected stabilization alternative of processing and storage for vitrification in the DWPF. However, the potential impacts from any of the stabilization alternatives are acceptable and well below any regulatory or management control limits.

VII. Conclusion

While the Final EIS focuses on the interim management of nuclear materials at the SRS, the decisions associated with the safe management of these materials directly affect the operational status of the nuclear material processing facilities at the Site. The decisions in this supplemental ROD and the initial ROD and Notice are structured to effect the earliest completion of actions necessary to stabilize or convert nuclear materials into forms suitable for safe storage and prepare the facilities for subsequent shutdown and deactivation. The actions being implemented will support efficient, cost-effective consolidation of the storage of nuclear materials and, to a great extent, will result in stabilization of the nuclear materials and alleviation of associated vulnerabilities within the timeframe recommended by the DNFSB.

The stabilization decisions utilize existing facilities and processes to the extent practical; can be implemented within expected budget constraints and with minimal additional training to required personnel; rely upon proven technology; use an integrated approach; and represent the optimum use of facilities to stabilize the materials in the shortest amount of time. Only minor modifications of the canyon facilities will be required, and these were also supported by the decisions made in the initial ROD and Notice.

Several years will be required to achieve stabilization of the nuclear materials within the scope of this and the initial ROD. Stabilization of the candidate nuclear materials at SRS will entail the operation of many portions of the chemical processing facilities. Consistent with DNFSB Recommendation 94–1, this will preserve DOE's capabilities related to the management and stabilization of other nuclear materials until programmatic decisions are made.

In summary, the Department has structured its decisions on interim actions related to management of the nuclear materials at SRS to achieve stabilization as soon as possible.

Issued at Washington, DC, February 8, 1996.

Thomas P. Grumbly,

Assistant Secretary for Environmental Management.

[FR Doc. 96–3884 Filed 2–20–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–46–000]

Algonquin Gas Transmission Corporation, Panhandle Eastern Pipe Line Company, Texas Eastern Transmission Corporation, Trunkline Gas Company; Notice Cancelling Technical Conference

February 14, 1996.

Take notice that the technical conference in this docket that was scheduled for Tuesday, February 20, 1996 (61 FR 3691, February 1, 1996), is being cancelled. On February 14, 1996, the subject pipelines filed a request that the Commission hold the processing of the proposed tariff sheets in abeyance so that the pipelines can consider revisions based on the standardization recommendations being formulated by the Gas Industry Standards Board pursuant to the Commission's order in Docket No. RM96–1–000.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3775 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

Central Maine Power, Swans Falls Power Corporation; Notice of 10(j) Meeting

[Project Nos. 2528–ME; 2527–ME; 2194–ME; 2531–ME; 2529–ME; 2530–ME; and 11365–ME]

February 14, 1996.

a. Date and Time of meeting: February 28, 1996, from 10:00 AM to 11:00 AM.

b. Place: FERC, Room 52–40, 888 First Street, NE, Washington, DC 20426.

c. FERC Contact: Rich McGuire (202) 219–3084; Robert Bell (202) 219–2806.

d. Purpose of the Meeting: The Federal Energy Regulatory Commission and the United States Department of the Interior intend to have a Section 10(j) discussion and negotiation meeting for the Saco River Projects listed above.

e. Proposed Agenda:

A. Introduction
   Recognition of meeting participants
   Conference or meeting procedures
B. Section 10(j) issues discussion
   Run-of-river operation and minimum flows—Bonny Eagle and Skelton
   Monitoring DO levels—Skelton
   Aquatic invertebrate monitoring studies—Bonny Eagle and Skelton
   Impoundment Drawdown—Bonny Eagle
   Fish population monitoring—Bonny Eagle
C. Section 10(j) conflict resolution
D. Issues outside 10(j) discussion
E. Follow-up actions.

f. All local, State and Federal agencies, Indian Tribes, and interested parties, are hereby invited to attend this meeting as attendant. If you want to be an attendant by teleconference, please contact Rich McGuire or Robert Bell at the numbers listed above no later than February 23, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3776 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP94–2–006]

Columbia Gas Transmission Corporation; Notice of RIA Account Refund Report

February 14, 1996.

Take notice that on January 26, 1996, Columbia Gas Transmission Corporation

(Columbia) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report in accordance with Article XV, Section D of the April 17, 1995 Customer Settlement (the Settlement) approved by the Commission in Docket No. GP94–2–003, *et al.* on June 15, 1995. Under the terms of the Settlement, Columbia was required to file this report with the Commission within sixty days after the effective date (November 28, 1995) of the Settlement. Columbia states that it distributed copies of the report to the Supporting Parties to the Settlement.

The report shows, by refund issue, the pre-petition period refunds received by Columbia and deposited in the Restricted Investment Arrangement (RIA) account.[1] The report also shows the various dates when these refunds were distributed by Columbia, and to whom they were paid. The subject refunds, including interest, were distributed from the RIA account on November 28, 1995 as a result of the approval of the Settlement and Columbia's bankruptcy proceedings. The report details the following Category I Refunds and the remaining Category II Refunds: [2]

Account No. 191
  Category I—$10,158,582.79
  Category II—$898,243.16
Account No. 858 Tracker
  Category I—$4,240,344.96
  Category II—$0.00
Order 500/528
  Category I—$10,501,132.87
  Category II—$0.00
Account No. 858, Non-Tracker
  Category I—$9,903,376.63
  Category II—$0.00
GRI
  Category I—$885,965.56
  Category II—$0.00
Transco Refunds Applicable to Commonwealth Customers
  Category I—$204,974.44
  Category II—$0.00
Refunds Applicable to Capacity Released to Chevron
  Category I—$478,316.38
  Category II—$0.00

[1] The pre-petition period refers to the period prior to July 31, 1991 when Columbia filed a petition for bankruptcy protection under Chapter 11 of the Bankruptcy Code.

[2] As defined in Article II, Section F of the Settlement, Category I Refunds are pre-petition period refunds which had not been flowed through and were held due to the petition for Chapter 11; and Category II Refunds are applicable to the pre-petition period but not received until after July 31, 1991.

Any person desiring to protest Columbia's refund report should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before February 21, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3777 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

Equitrans, L.P.; Notice of Corrected Tariff Sheets Filing

February 14, 1996.

Take notice that on February 9, 1996, Equitrans, L.P. (Equitrans), submitted for filing in its FERC Gas Tariff First Revised Volume NO. 1 the following proposed tariff sheets: Third Revised Sheet No. 58; Third Revised Sheet No. 203A; and Second Revised Sheet No. 238.

Equitrans states that these proposed tariff sheets are being submitted in order to correct the pagination or the superseding pagination contained on the corresponding proposed tariff sheets which were submitted for filing by Equitrans on January 23, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–3774 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES96–1–001]

Old Dominion Electric Cooperative Notice of Amended Application

February 14, 1996.

Take notice that on February 8, 1996, Old Dominion Electric Cooperative (ODEC) made a filing requesting that the Commission amend the authorization granted in Docket No. ES96–1–000.

By letter order dated November 20, 1995 (73 FERC ¶ 62,120), ODEC was authorized, under § 204 of the FPA, to enter into a tax advantaged lease and leaseback of its 50 percent undivided ownership interest (Undivided Interest) in the Clover Power Station Unit 1 and certain common facilities.

As described in the application, the transaction would involve a lease and leaseback under which a tax-sensitive investor (Equity Investor) will obtain ''ownership'' of the Undivided Interest for income tax purposes.

There are three modifications to the original application indicated in ODEC's February 8, 1996 amendment. They are:

A. Changes to Debt Structure

Under the initial application, ODEC would have used part of the prepared rent under the Head Lease to fund a loan characterized as the Series A Loan. Under the proposed structure, the Series A Loan will be made by an independent lender; and, ODEC, would enter into an agreement with an affiliate of the Series A Lender, whereunder the affiliate will undertake to pay that portion of each installment of rent which equals then due principal and interest payments on the Series A Loan in exchange for an up-front payment made by ODEC from the pre-paid Head Lease rent.

B. Change to Equity Security Deposit

According to the original application, ODEC was to set aside the Equity Security Deposit to be invested in certificates of deposit. ODEC is now preparing to use the Equity Security Deposit funds to purchase, on the market, ODEC Bonds rather than investing in lower yielding certificates of deposit.

ODEC proposes to replace the repurchased Bonds with new 1996 Series A Bonds which would have a maturity of less than one year. ODEC indicates that the new Bonds would be issued under the authority granted by the Commission in Docket No. ES94–40–000 (69 FERC ¶ 62,054).

C. Release of Lien of ODEC's Indenture

As indicated in the initial application, the Undivided Interest would be leased to the Equity Investor subject to the lien of ODEC's Indenture. As originally proposed, this lien was to survive even if ODEC elected to not exercise its Purchase Option under the Operating Lease. Now, however, ODEC is now proposing that at the end of the Operating Lease, if it chooses not to exercise its Purchase Option, it would obtain the release of the Undivided Interest from the lien of its Indenture.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 385.211 and 385.214). All such motions or protests should be filed on or before February 22, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. 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. 96–3778 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–142–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 14, 1996.

Take notice that on February 12, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, revised tariff sheets as follows:

First Revised Sheet No. 526
Original Sheet No. 526A
First Revised Sheet No. 528
Original Sheet No. 528A
First Revised Sheet No. 529

The proposed effective date of these revised tariff sheets is February 12, 1996.

Texas Eastern states that this filing is submitted as a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. Section 717c (1988) and Part 154 of the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder, in order to address inappropriate balancing incentives identified with the operation of its current cash-out mechanism contained in Section 8 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that the revised tariff sheets filed to modify Section 8 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1 are necessary to protect the system and to protect Texas Eastern's customer from the impact of gaming the cash-out mechanism.

Texas Eastern states that the revised tariff sheets filed herein change the cash-out mechanism contained in Section 8 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1, by replacing the current weighted average pricing methodology to a highest/lowest price application if imbalances exceed 5%. Texas Eastern states, inter alia, that the change is necessary in order to reduce the incentives existing in its current mechanism for an individual party to take actions which cause detriment to the operation of the system as a whole and which result in other parties subsidizing an individual party's efforts to profiteer. Texas Eastern has requested waiver of notice period to allow immediate implementation.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern, interested state commissions, and all interruptible shippers as of the date of the filing.

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 must be filed as provided in Section 154.210 of the Commission's Regulations. 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. 96–3773 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5426–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 22, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer at EPA, 202–260–2740, and refer to EPA ICR No. 0575.07.

SUPPLEMENTARY INFORMATION:

Title: TSCA Section 8(d) Health and Safety Data Reporting Rule (OMB Control No. 2070–0004, EPA ICR No. 0575.07). This is a request for extension of a currently approved information collection which expires on February 28, 1996.

Abstract: Section 8(d) of the Toxic Substances Control Act (TSCA) and regulations at 40 CFR part 716 requires manufacturers and processors of chemicals to submit lists and copies of health and safety studies relating to the health and/or environmental effects of certain chemical substances and mixtures. In order to comply with the reporting requirements of section 8(d), respondents must search their records to identify any health and safety studies in their possession, copy and process relevant studies, list studies that are currently in progress, and submit this information to EPA.

EPA uses this information to construct a complete picture of the known effects of the chemicals in question, leading to determinations by EPA of whether additional testing of the chemicals is required. The information

enables EPA to base its testing decisions on the most complete information available and to avoid demands for testing that may be duplicative. EPA will use information obtained via this collection to support its investigation of the risks posed by chemicals and, in particular, to support its decisions on whether to require industry to test chemicals under section 4 of TSCA.

Responses to the collection of information are mandatory (see 40 CFR part 716). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentially only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 2.0 hours and 23.5 hours per response, depending upon the requirements that the collection places on each respondent. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. 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.

Respondents/Affected Entities: Those that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Estimated No. Of Respondents: 852.

Estimated Total Annual Burden on Respondents: 9,668 hours.

Frequency of Collection: On Occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 0575.07 and OMB Control No. 2070–0004 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: February 14, 1996

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–3860 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180990; FRL–5348–3]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to 11 States listed below. Six crisis exemptions were initiated by various States and one quarantine exemption was granted to the Florida Department of Agriculture and Consumer Services. These exemptions, issued during the months of July through December 1995, and the one in January 1996, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied specific exemption requests from the Minnesota and North Dakota Departments of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemptions for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS 1B1, 2800 Jefferson Davis Highway, Arlington, VA (703–308–8417); e-mail: group.ermus@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

2. Alabama Agriculture and Industries for the use of Pirate on cotton to control beet armyworms; August 25, 1995, to September 30, 1996. (Margarita Collantes)

3. Arizona Department of Agriculture for the use of propamocarb hydrochloride on potatoes to control late blight; December 18, 1995, to April 30, 1996. (Libby Pemberton)

4. Arkansas State Plant Board for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

5. California Department of Pesticide Regulation for the use of propamocarb hydrochloride on tomatoes to control late blight; October 12, 1995, to December 31, 1995. (Libby Pemberton)

6. California Department of Pesticide Regulation for the use of methyl bromide on watermelons to control nematodes, weeds, and fungi; December 15, 1995, to April 30, 1996. (Libby Pemberton)

7. California Department of Pesticide Regulation for the use of methyl bromide on carrots to control nematodes; December 14, 1995, to December 13, 1996. (Libby Pemberton)

8. Florida Department of Agriculture and Consumer Services for the use of lactofen on snap beans to control nightshade and common ragweed; September 1, 1995, to May 31, 1996. (Margarita Collantes)

9. Florida Department of Agriculture and Consumer Services for the use of Pirate on cotton to control beet armyworms and tobacco budworms; September 1, 1995, to September 1, 1996. (Margarita Collantes)

10. Florida Department of Agriculture and Consumer Services for the use of avermectin on potatoes to control leafminers; October 27, 1995, to June 1, 1996. (David Deegan)

11. Georgia Department of Agriculture for the use of metalaxyl on mustard greens, turnips and collards to control downy mildew; October 13, 1995, to June 30, 1996. (David Deegan)

12. Georgia Department of Agriculture for the use of Pirate on cotton to control tobacco budworms; August 8, 1995, to September 30, 1995. (Margarita Collantes)

13. Idaho Department of Agriculture for the use of imazalil on sweet corn seed to control damping-off and die-back diseases; November 22, 1995, to November 22, 1996. (Andrea Beard)

14. Louisiana Department of Agriculture and Forestry for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

15. Mississippi Department of Agriculture and Commerce for the use of Pirate on cotton to control beet armyworms; August 25, 1995, to September 30, 1995. (Margarita Collantes)

16. Mississippi Department of Agriculture and Commerce for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

17. New Jersey Department of Environmental Protection for the use of carboxin on onion seed to control onion smut; November 22, 1995, to June 1, 1996. (Kerry Leifer)

18. Texas Department of Agriculture for the use of propamocarb hydrochloride on potatoes to control late blight; January 1, 1996, to October 31, 1996. (Libby Pemberton)

19. Texas Department of Agriculture for the use of Pirate on cotton to control beet armyworms; August 18, 1995, to September 30, 1995. (Margarita Collantes)

Crisis exemptions were initiated by the:

1. Florida Department of Agriculture and Consumber Services on August 14, 1995, for the use of tebufenozide on cotton to control beet armyworms. This program has ended. (Margarita Collantes)

2. Idaho Department of Agriculture on July 14, 1995, for the use of paraquat dichloride on dry peas to control regrowth vegetation. This program has ended. (David Deegan)

3. New Mexico Department of Agriculture on September 2, 1995, for the use of triadimefon on peppers to control powdery mildew. This program has ended. (Andrea Beard)

4. Washington Department of Agriculture on July 20, 1995, for the use of paraquat dichloride on dry peas to control regrowth vegetation. This program has ended. (David Deegan)

5. United States Department of Agriculture on December 1, 1995, for the use of methyl bromide on leafy vegetables, root and tuber vegetables, and kiwi fruit to control foreign pests. This program is expected to last until December 1, 1998. (Libby Pemberton)

6. United States Department of Agriculture on October 14, 1995, for the use of methyl bromide on bananas, plantains, avocados, blackberries, raspberries, and opuntia to control various imported pests. This program is expected to last until October 14, 1998. (Libby Pemberton)

EPA has denied specific exemption requests from the Minnesota and North Dakota Departments of Agriculture for the use of triallate on sugarbeets to control wild oats. The Agency denied the exemptions because there are registered alternative products available for the uses; therefore, an emergency situation does not exist. (David Deegan)

EPA has granted a quarantine exemption to the Florida Department of Agriculture and Consumer Services for the use of naled on non-food sites (utility poles, trees, other inanimate objects), as bait spots in a program to eradicate the Oriental fruit fly; October 18, 1995, to October 18, 1998. (Andrea Beard)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: February 7, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–3462 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–133; DA 96–139]

Common Carrier Bureau Sets Pleading Schedule in Preliminary Rate of Return Inquiry.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (''FCC'' or ''Commission'') is issuing a public notice (''Notice'') asking for comments on whether a rate of return represcription proceeding should be initiated for those local exchange carriers (''LECs'') who are subject to rate of return regulation for their earnings on interstate access services. The commenters may submit any evidence and opinion they deem relevant to the cost of debt, cost of equity and the capital structure for LEC interstate access services. The Notice contains a revised cost of debt formula not presently included in the Commission's rules. The information contained in the comments and reply comments will be used to help the Commission decide whether to initiate a represcription proceeding.

DATES: All comments shall be filed no later than March 11, 1996. Reply comments shall be filed no later than April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, telephone number (202) 418–0872, or John Hays, telephone number 202–418–0875.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the Commission's public notice, released February 6, 1996, asking for comments on whether a rate of return represcription proceeding should be initiated for those local exchange carriers (''LECs'') who are subject to rate of return regulation for their earnings on interstate access services. See 47 CFR § 65.101. In a *Report and Order* in CC Docket No. 92–133, 60 FR 28542, June 1, 1995 (''Order''), the Commission adopted new represcription procedures under which the Commission monitors the monthly average yields on ten-year United States Treasury securities. Whenever such monthly average yields remain, for a consecutive six-month period, at least 150 basis points (i.e., 1.5 percent) above or below a certain reference point, the Commission must issue a Notice inquiring whether to commence a rate of return represcription proceeding. The reference point is the average of the average monthly yields in effect for the consecutive six-month period immediately prior to the effective date of the current rate of return prescription. The Notice must: (1) set filing deadlines for comments and replies; (2) set forth the cost of debt, cost of preferred stock, and capital structure computed in accordance with Part 65 of the Commission's rules; and (3) solicit ''such further information as the Commission might deem proper.'' 47 CFR §§ 65.302, 65.303, and 65.304. The Commission delegated authority to issue the Notice to the Chief, Common Carrier Bureau (''Bureau''). As stated in the *Report and Order*, the reference point currently is set at 8.64 percent.

2. For the consecutive six-month period May through October 1995, the yields on ten-year United States Treasury securities were more than 150 basis points below the 8.64 percent reference point. This downward trend in rates continued for the month of November 1995 when the yield on the ten-year Treasury securities was 5.93 percent, i.e., 2.71 percent below the reference point. The Commission, therefore, is issuing this Notice to ask interested parities to file comments and replies in order to help the Commission decide whether to initiate a represcription proceeding.

3. The Commission invites commenters to submit any evidence and opinion they deem relevant, including evidence regarding the cost of equity for LEC interstate access services. The Commission may decide to initiate a represcription proceeding based on information submitted in this proceeding and ''on any other information specifically identified'' by the Commission. *See* 47 CFR § 65.101(b). In an appendix (''Appendix'') attached to the Notice,

the Commission has set out calculations of the cost of debt and capital structure. For purposes of this Notice, the Commission requests comment on cost of debt determined by the formula set out in Section 65.302, but it notes that this formula would appear to yield an excessively high cost of carrier debt (i.e., 14.96%). This cost of debt results from an apparent error in the numerator in the cost of debt formula. That numerator, Total Annual Interest Expense, is defined as for ''the most recent two years'' for all LECs with annual revenues of $100 million, rather than ''the most recent year'' which would appear to be consistent with the intent of the Commission's Order. The Bureau intends to propose to the Commission that it change the rule to reflect this modification. In the meantime, and pursuant to Section 65.101(b), commenters are invited to address revised cost of debt calculations based on a modified formula as set out in the Appendix attached to the Notice.

4. For LECs with annual revenues of $100 million or more, the Commission computes a composite cost of debt of 7.21 percent and a capital structure composed of 42.48 percent debt and 57.52 percent equity. Based on information currently available to the Commission, no LEC subject to rate of return regulation for interstate access services has issued preferred stock as of the date of this Notice. The Commission invites comment on whether this is in fact the case and, if it is not, commenters may submit their analyses and cost calculations for preferred stock in their replies. All data submitted shall be filed in paper format and electronically on 3.5 inch high-density diskettes in either Lotus 123 (version 4.x or below) or Microsoft Excel (version 4.x or below).

5. For purposes of this proceeding, our non-restricted ''permit but disclose'' *ex parte* rules will apply. 47 CFR §§ 1.1200(a) and 1.1006. These rules generally allow *ex parte* presentations in non-restricted proceedings subject to a public disclosure requirement. Responses to Commission and staff inquiries that are designed to clarify or adduce evidence, or to resolve issues, are considered exempt *ex parte* presentations pursuant to 47 CFR § 1.1204(b)(7), provided that any new information is disclosed pursuant to the Note to that section and 47 CFR § 1.1206(a).

6. All comments shall be filed no later than March 11, 1996. Reply comments shall be filed no later than April 15, 1996. Comments should reference file number AAD 95–172. Four copies of each pleading should be sent to Ernestine Creech, FCC, Common Carrier Bureau, 2000 L Street NW., Suite 257, Washington, D.C. 20554, and one copy of each pleading to the International Transcription Service (ITS), 2100 M Street NW., Suite 140, Washington, D.C. 20037. Copies are available for public inspection in the Accounting and Audits Division public reference room 2000 L Street NW., Room 812, Washington, D.C. Copies of comments and notice are available from ITS.

Federal Communications Commission.

Regina M. Keeney,

Chief, Common Carrier Bureau.

[FR Doc. 96–3665 Filed 2–20–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Security for the Projection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Ulysses Cruises Inc. and Compania de Vapores Oceanbreeze, S.A., c/o Dolphin Cruise Line, Inc., 901 South America Way, Miami, Florida 33132

Vessel: OCEANBREEZE

Dated: February 14, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3765 Filed 2–20–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

O'Keefe and Associates, Inc., 525 Sandy Creek Drive, Brandon, FL 33511, Officers: Jenna O'Keefe, President; Rock O'Keefe, Vice President

Rula International, Inc., 201 Plaza Verde Drive, Suite 1209, Houston, TX 77038–1422, Officer: Martin E. Lambert, President

American River International, Ltd., 130 Rivera Drive, Suite 1, Massapequa, NY 11758, Officer: Thomas A. Cook, President

Caribbean Shipping & Consolidating Corp., 3730 NW 72 Street, Miami, FL 33147, Officers: Winston R. Simmonds, President; Harry P. Maragh, Vice President.

Dated: February 14, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3766 Filed 2–20–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Craig L. Campbell, 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 March 5, 1996.

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

1. Craig L. Campbell, Elburn, Illinois; to acquire an additional 19.34 percent, for a total of 25.02 percent, and Douglas L. Campbell, Elburn, Illinois, to acquire an additional 18.76 percent, for a total of 25.21 percent, of the voting shares of Iroquois Bancorp, Inc., Gilman, Illinois, and thereby indirectly acquire First N B of Gilman, Gilman, Illinois.

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

1. Citizens Bank 401-K ESOP, Farmington, New Mexico; to retain a total of 22 percent of the voting shares of Citizens Bankshares, Inc., Farmington, New Mexico, and thereby indirectly retain Citizens Bank, Farmington, New Mexico.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3781 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

Financial Services Corp of The Midwest; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 1996.

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

1. Financial Services Corp of The Midwest, Rock Island, Illinois; to engage *de novo* in the making and servicing of loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3782 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

Fleet Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 15, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Fleet Financial Group, Inc., Boston, Massachusetts; to acquire 100 percent of the voting shares of NatWest Bank National Association, Jersey City, New Jersey.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. BT Financial Corporation, Johnstown, Pennsylvania; to merge with Moxham Bank Corporation, Johnstown, Pennsylvania, and thereby indirectly acquire The Moxham National Bank of Johnstown, Johnstown, Pennsylvania.

C. 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 Regional Bank of Colorado, N.A., Rifle, Colorado.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3783 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

SouthTrust Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

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

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than March 5, 1996.

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

1. SouthTrust Corporation, Birmingham, Alabama, and SouthTrust of Florida, Inc., Jacksonville, Florida; to

acquire FFE Financial Corp., Englewood, Florida, and thereby indirectly acquire First of Englewood, F.S.B., Englewood, Florida, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3784 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92D–0287]

Generic Animal Drug Products Containing Fermentation-Derived Drug Substances; Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance on Generic Animal Drug Products Containing Fermentation-Derived Drug Substances.'' The guidance is intended to provide sponsors with information that will enable them to submit complete and well-organized chemistry and manufacturing and control information for applications for generic animal drug products containing fermentation-derived drug substances. FDA invites interested persons to submit written comments on this guidance.

DATES: Written comments on this guidance document may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Guidance on Generic Animal Drug Products Containing Fermentation-Derived Drug Substances'' to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1755. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2701.

SUPPLEMENTARY INFORMATION: The sponsor of a new animal drug application (NADA) is required to submit to FDA the chemistry and manufacturing and control information necessary to support their submission. This information is generally described in 21 CFR 514.1 for original NADA's and in 21 CFR 514.8 for supplements to approved NADA's. The chemistry and manufacturing and control information requirements are identical for original abbreviated new animal drug applications (ANADA's) and supplements to approved ANADA's.

Additionally, the manufacturing process must meet current good manufacturing practice (CGMP) regulations. The CGMP requirements are described in 21 CFR parts 210 and 211 for pharmaceutical dosage forms and in 21 CFR part 226 for Type A medicated articles.

The Center for Veterinary Medicine believes that the guidance document will provide sponsors with information that will enable them to submit complete and well-organized chemistry and manufacturing and control data and information for ANADA's for animal drug products containing fermentation-derived drug substances.

In contrast to the general description of requirements in the Code of Federal Regulations, the guidance document provides specific manufacturing information recommendations for antibiotic new drug substances, biomass drug substances, and the finished drug product. In addition, it provides guidance for conducting comparison studies between the generic drug product and the pioneer drug product. The guidance document also describes acceptable fermentation organisms, antibiotic new drug substances, and biomass drug substances.

A person may follow the guidance or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. Although this guidance document does not bind the agency or the public, and it does not create or confer any rights, privileges, or benefits for or on any person, it represents FDA's current thinking on generic animal drug products containing fermentation-derived substances. When a guidance document states a requirement imposed by statute or regulation, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guidance.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 13, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–3733 Filed 2–20–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Renewals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of certain FDA advisory committees by the Commissioner of Food and Drugs. The Commissioner has determined that it is in the public interest to renew the charters of the committees listed below for an additional 2 years beyond charter expiration date. The new charters will be in effect until the dates of expiration listed below. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463 (5 U.S.C. app. 2)).

DATE: Authority for these committees will expire on the dates indicated below unless the Commissioner formally determines that renewal is in the public interest.

Name of committee	Date of expiration
National Mammography Quality Assurance Advisory Committee	July 6, 1997
Nonprescription Drugs Advisory Committee	August 27, 1997
Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants	December 2, 1997
Food Advisory Committee	December 18, 1997
Vaccines and Related Biological Products Advisory Committee	December 31, 1997
Advisory Committee for Pharmaceutical Science (Formerly Generic Drugs Advisory Committee)	January 22, 1998

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: February 9, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–3734 Filed 2–20–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

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, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the 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.

Type of Information Collection Request: New collection; *Title of Information Collection:* Federally Qualified Health Center (FQHC) Survey; *Form No.:* HCFA–R–188; *Use:* This survey is needed and will be used by HCFA to evaluate the FQHC Medicare benefit. Respondents will be all Medicare certified FQHC's. *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, and business or other for-profit; *Number of Respondents:* 1,489; *Total Annual Responses:* 1,489; *Total Annual Hours Requested:* 496.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 12, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–3745 Filed 2–20–96; 8:45 am]

BILLING CODE 4120–03–P

Information Collection Requirements Submitted for Public Comment: Submission for Office of Management and Budget (OMB) Review

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requirement abstracted below has been submitted to the Office of Management and Budget (OMB) for review and comment. Interested persons are invited to send comments regarding the 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 budget.

1. *Type of Information Collection Request:* New; *Title of Information Collection:* Medicare Carrier Provider/Supplier Enrollment Application; *Form No.:* HCFA-R–186; *Use:* This information is needed to enroll providers/suppliers by identifying them, verifying their qualifications and eligibility to participate in Medicare, and to price and pay their claims correctly. *Frequency:* Initial Application; *Affected Public:* Business or other for profit, Federal Government; *Number of Respondents:* 160,000; *Total Annual Hours Requested: 240,000.*

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 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 14, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff.

[FR Doc. 96–3862 Filed 2–20–96; 8:45 am]

BILLING CODE 4120–03–P

Privacy Act of 1974; Systems of Records

AGENCY: Department of Health and Human Services (HHS), the Health Care Financing Administration (HCFA).

ACTION: Notice of proposed new routine use for existing and future systems of records.

SUMMARY: HCFA proposes revising the systems notices for all of its existing and future systems of records to include a routine use to allow for the disclosure of information, without the individual's consent, to the Social Security Administration (SSA) in order to enable SSA to assist HCFA in the implementation and maintenance of the Medicare and Medicaid programs.

This new routine use is necessary due to the establishment of SSA as a separate agency which is not a part of HHS. Prior to March 31, 1995, SSA and HCFA were components within HHS and, as such, enjoyed the benefits of the special relationship afforded members of the same Department. One of these benefits was the ability to disclose and

exchange data under Section (b)(1) of the Privacy Act as amended.

With the enactment of Pub. L. 103–296 on March 31, 1995, SSA became an independent agency. This has caused SSA and HCFA to examine their relationship under the law. This law allowed the two agencies to continue to disclose information under Section (b)(1) of the Privacy Act as amended for 1 year after enactment.

As a result of the change in SSA's status, HCFA is proposing the addition of a global routine use to all of its current and future Privacy Act systems of records listed in Attachment 1. This routine use will permit the disclosure of information to SSA under Section (b)(3) of the Privacy Act as amended.

EFFECTIVE DATES: HCFA filed an altered system report with the Chairman of the Committee on Government Reform and Oversight of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on February 14, 1996. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days from the publication of this notice or from the date the report was submitted to OMB and the Congress, whichever is later, unless HCFA receives comments which require alterations to this notice.

ADDRESSES: The public should address comments to Mr. Richard DeMeo, HCFA Privacy Act Officer, Associate Administrator for External Affairs, C2–01–20, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Berry, Director, Information Liaison Branch, Office of Health Care Information Systems, Bureau of Data Management and Strategy, HCFA, N3–13–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Telephone (410) 786–0182.

SUPPLEMENTARY INFORMATION: We are publishing this notice to inform the public of our intent to continue sharing data with SSA but to do so under Section (b)(3) of the Privacy Act which allows for disclosure of information for a routine use. This new routine use is required by SSA's change in status to an independent agency. This routine use will read as follows:

To the Social Security Administration for their assistance in the implementation of HCFA's administration of the Medicare and Medicaid programs.

This proposed new routine use is consistent with the relevant provisions of the Privacy Act, namely, 5 U.S.C. 552a(a)(7), 552a(b)(3), and 522a(e)(4)(D). Legal authority to release these data under this routine use and others previously published is the Privacy Act (5 U.S.C. Section 552a), section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)), and 42 CFR part 401, subpart B. Because this proposed change will significantly alter the system, we are preparing a report of altered system of records under 5 U.S.C. 552a(r).

Dated: February 9, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

ATTACHMENT 1

Number	Title
09–70–0005	National Claims History (NCH), HHS/HCFA/BDMS.
09–70–0019	Actuarial Sample Hospital Stay Record Study, HHS/HCFA/BDMS.
09–70–0020	Acturial Sample of Supplementary Medical Insurance Payments, HHS/HCFA/OACT.
09–70–0022	Municipal Health Services Program, HHS/HCFA/ORD.
09–70–0029	Evaluation of Medicare Competition Demonstrations, HHS/HCFA/ORD.
09–70–0030	National Long-Term Care Survey Followup, HHS/HCFA/ORD.
09–70–0033	Person Level Medicaid Data System (aka tape-to-tape), HHS/HCFA/ORD.
09–70–0034	Evaluation of Social/Health Maintenance Organization (HMO) Demonstrations, HHS/HCFA/ORD.
09–70–0035	Aftercare Evaluation System (AES), HHS/HCFA/ORD.
09–70–0036	Evaluation of Competitive Bidding for Durable Medical Equipment Demonstration, HHS/HCFA/ORD.
09–70–0038	Evaluation of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) Health Maintenance Organization (HMO) and Competitive Medical Plan (CMP) Program, HHS/HCFA/ORD.
09–70–0039	Evaluation of Medicare Alzheimer's Disease Demonstration, HHS/HCFA/ORD.
09–70–0040	Health Care Financing Administration Organ Transplant Data File, HHS/HCFA/BDMS.
09–70–0041	Evaluation of the OBRA 87 Medicare Payment of Influenza Vaccination Demonstration, HHS/HCFA/ORD.
09–70–0042	Medicare Cancer Registry Record System (SEER), HHS/HCFA/ORD.
09–70–0044	Demonstration and Evaluation of the Medicare Insured Group (MIG) Model, HHS/HCFA/ORD.
09–70–0045	Evaluation of the Arizona Health Care Cost Containment And Long Term Care Systems Demonstration, HHS/HCFA/ORD.
09–70–0046	Home Health Quality Indicator System (HHQUIS), HHS/HCFA/ORD.
09–70–0047	HCFA Medicare Mortality Predictor Data File, HHS/HCFA/ORD.

ATTACHMENT 1—Continued

Number	Title
09–70–0048	Monitoring of Home Health Agency Prospective Payment Demonstration, HHS/HCFA/ORD.
09–70–0049	Evaluation of the Home Health Agency (HHA), Prospective Payment Demonstration, HHS/HCFA/ORD.
09–70–0050	The Medicare/Medicaid Multi-State Case-Mix And Quality Data Base for Nursing Home Residents, HHS/HCFA/ORD.
09–70–0051	Monitoring of the Home Health Agency Prospective Payment Demonstration, HHS/HCFA/ORD.
09–70–0052	Post-Hospitalization Outcomes Studies, HHS/HCFA/ORD.
09–70–0053	The Medicare Beneficiary Health Status Registry Pilot, HHS/HCFA/ORD.
09–70–0054	Evaluation of the United Mine Workers of America Health and Retirement Funds Medicare Part B Capitation Demonstration, HHS/HCFA/ORD.
09–70–0055	Implementation and Evaluation of the Staff-Assisted Home Dialysis Demonstration, HHS/HCFA/ORD.
09–70–0056	Evaluation of the Medicaid Expansion Demonstrations, HHS/HCFA/ORD.
09–70–0057	Evaluation of the Medicaid Extension of Eligibility To Certain Low Income Families Not Otherwise Qualified to Receive Medicaid Benefits Demonstration, HHS/HCFA/ORD.
09–70–0058	Evaluation of the Medicare SELECT Program, HHS/HCFA/ORD.
09–70–0059	The Medicaid Necessity, Appropriateness, and Outcomes of Care Study, HHS/HCFA/ORD.
09–70–0061	Evaluation of the Medicare Case management Demonstration, HHS/HCFA/ORD.
09–70–0062	Medicare Cataract Surgery Alternate Payment Demonstration Data Base, HHS/HCFA/ORD.
09–70–0063	Evaluation of the Medicaid Demonstration for Improving Access to Care for Substance Abusing Pregnant Women, HHS/HCFA/ORD.
09–70–0064	Individuals Authorized Access to the Health Care Financing Administration (HCFA) Data Center, HHS/HCFA/BDMS.
09–70–0066	Evaluation of, and External Quality Assurance for, The Community Nursing Organization (CNO) Demonstration, HHS/HCFA/ORD.
09–70–0501	Carrier Medicare Claims Records, HHS/HCFA/BPO.
09–70–0502	Health Insurance Master Record (Revision Pending), HHS/HCFA/BPO.
09–70–0503	Intermediary Medicare Claims Records, HHS/HCFA/BPO.
09–70–0504	Beneficiary Part A and B Uncollectible Overpayment File, HHS/HCFA/BPO.
09–70–0505	Supplemental Medical Insurance (SMI) Accounting Collection and Enrollment System (SPACE), HHS/HCFA/BPO.
09–70–0507	Health Insurance Utilization Microfilm, HHS/HCFA/BPO.
09–70–0508	Reconsideration and Hearing Case Files (Part A) Hospital Insurance Program HHS/HCFA/BPO.
09–70–0509	Medicare Beneficiary Correspondence Files, HHS/HCFA/BPO.
09–70–0512	Review and Fair Hearing Case Files—Supplementary Medical Insurance Program, HHS/HCFA/BPO.
09–70–0513	Explanation of Medicare Benefit Records, HHS/HCFA/BPO.
09–70–0515 (Incorrectly published 09–*07*–0515)	Resident Assessment System and Data Base for Nursing Home Residents, HHS/HCFA/HSQB.
09–70–0516	Medicare Physician Supplier Master File, HHS/HCFA/BPO.
09–70–0517	Physician/Supplier 1099 File (Statement for Recipients of Medical and Health Care Payments), HHS/HCFA/BPO.
09–70–0518	Medicare Clinic Physician Supplier Master File, HHS/HCFA/BPO.

ATTACHMENT 1—Continued

Number	Title
09–70–0520	End State Renal Disease (ESRD) Program Management and Medical Information System (PMMIS), HHS/HCFA/BDMS.
09–70–0522	Billing and Collection Master Record System, HHS/HCFA/BPO.
09–70–0524	Intern and Resident Information System, HHS/HCFA/BPO.
09–70–0525	Medicare Physician Identification and Eligibility System (MPIES), HHS/HCFA/BPO.
09–70–0526	Commong Working File (CWF), HHS/HCFA/BPO.
09–70–0527	HCFA Utilization Review Investigatory Files, HHS/HCFA/BPO.
09–70–0529	Medicare Supplier Identification File, HHS/HCFA/BPO.
09–70–1511	Physical Therapists in Independent Practice (Individuals), HHS/HCFA/HSQB.
09–70–1512	Peer Review Organization (PRO) Data Management Information System (PDMIS), HHS/HCFA/HSQB.
09–70–1514	HCFA Medicare Severity of Illness Data File, HHS/HCFA/HSQB.
09–70–1515	Resident Assessment System and Data Base for Nursing Home Residents, HHS/HCFA/HSQB.
09–70–2003	Completion of State Medicaid Quality Control (MQC) Reviews, HHS/HCFA/MB.
09–70–2006	Income and Eligibility Verification for Medicaid Eligibility Quality Control (MEQC) Reviews, HHS/HCFA/MB.
09–70–3001	Record of Individuals Authorized Entry to HCFA Buildings via A Card Key Access System, HHS/HCFA/OFHR.
09–70–3002	Health Care financing Administration (HCFA) Employee Building Pass Files, HHS/HCFA/OFHR.
09–70–3003	Health Care Financing Administration (HCFA) Correspondence Handling and Processing System, HHS/HCFA/OFHR.
09–70–4001	Group Health Plan (GHP) System, HHS/HCFA/OPHC.
09–70–4002	Beneficiary Inquiry Tracking System, HHS/HCFA/OPHC.
09–70–4003	Medicare HMO/CMP Beneficiary Reconsideration System (MBRS), HHS/HCFA/OPHC.
09–70–5001	Medicare Hearings and Appeals System (MHAS), HHS/HCFA/AAO.
09–70–6001	Medicaid Statistical Information System (MSIS), HHS/HCFA/BDMS.
09–70–6002	Current Beneficiary Survey (CBS), HHS/HCFA/OACT.
09–70–9001	Health Care Financing Administration (HCFA) Correspondence and Assignment Tracking and Control System (CATCS), HHS/HCFA/OEO.

[FR Doc. 96–3827 Filed 2–20–96; 8:45 am]
BILLING CODE 4120–03–M

National Institutes of Health

Notice of a Closed Meeting of the Office of AIDS Research Advisory Council

Pursuant to sec. 10(d) of the Federal Advisory Committee Act (FACA), as amended (Title 5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Office of AIDS Research Advisory Council (OARAC) of March 13, 1996, at the Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland. In accordance with the provisions set forth in sec. 552b(c)(9), Title U.S.C. and sec. 10(d) of FACA, this meeting of the OARAC will be closed to the public.

The NIH Revitalization Act of 1993 authorized the OARAC to provide expert advice to the Director of the Office of AIDS Research. The meeting will be closed because information of an administrative confidential nature involving budget and program priorities from the NIH AIDS Research Evaluation Working Group will be discussed with the OARAC. Issues related to peer review and the process used to select projects for funding will also be discussed. Premature disclosure of this information is likely to significantly frustrate implementation of the NIH AIDS Research Program.

Further information concerning the OARAC meeting may be obtained from Jeannette R. De Lawter, Program Analyst, Office of AIDS Research, National Institutes of Health, Building 31, Room 4B54, 9000 Rockville Pike, Bethesda, MD 20892, Phone (301) 402–3357, Fax (301) 402–3360.

Date: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3881 Filed 2–20–96; 8:45 am]
BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Cancer Centers Program Working Group, February 21, 1996 at the Hyatt Regency Bethesda,

One Bethesda Metro Center, Bethesda, Maryland.

This meeting will be open to the public on February 21, from 8:30 am to 1 pm for overview and discussion of the Institute's Cancer Centers Extramural Program.

The meeting will be closed to the public on February 21, from 1 pm to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Cancer Centers Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. Paulette Gray, Executive Secretary, National Cancer Institute Board of Scientific Advisors, National Cancer Institute, 6130 Executive Blvd., Rm. 600, Bethesda, MD 20892, (301–496–4218). Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Dr. Paulette Gray in advance of the meeting.

Dated: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3882 Filed 2–20–96; 8:45am]

BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Center for Research Resources (NCRR) for February-March 1996.These meetings will be open to the public as indicated below, to discuss program planning; program accomplishments; administrative matters such as previous meeting minutes; the report of the Director, NCRR; review of budget and legislative updates; and special reports or other issues relating to committee business. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions 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.

Ms. Maureen Mylander, Public Affairs Officer, NCRR, National Institutes of Health, 1 Rockledge Center, Room 5146, 6705 Rockledge Drive, MSC 7965, Bethesda, Maryland 20892–7965, (301) 435–0888, will provide summaries of meetings and rosters of committee members. Other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific Review Administrator listed below, in advance of the meeting.

Name of Committee: The Subcommittee on Planning of the National Advisory Research Resources Council.

Executive Secretary: Louise Ramm, Ph.D., Deputy Director, National Center for Research Resources, Room 4011, Building 12A, Bethesda, MD 20892, Telephone: (301) 496–6023.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 3B41, Building 31B, Bethesda, Maryland 20892.

Open: February 22, 7:30 a.m.–8:45 a.m.

Name of Committee: National Advisory Research Resources Council.

Dates of Meeting: February 22–23, 1996.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, Maryland 20892.

Open: February 22, 9 a.m. until recess.

Closed: February 23, 8:00 a.m. until 10:00 a.m.

Open: February 23, 10:00 a.m. until adjournment.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Scientific Review Administrator: Dr. Jill Carrington, National Institutes of Health, 1 Rockledge Center, Room 6104, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0812.

Dates of Meeting: February 20–21, 1996.

Place of Meeting: The Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Open: February 20, 8:30 a.m.–9:30 a.m.

Closed: February 20, 9:30 a.m.-until adjournment.

Name of Committee: NCRR Initial Review Group-Comparative Medicine Review Committee.

Scientific Review Administrator: Dr. Raymond O'Neill, National Institutes of Health, 1 Rockledge Center, Room 6110, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0814.

Date of Meeting: February 25–27, 1996.

Place of Meeting: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: February 25, 6:30 p.m. until recess.

Open: February 26, 8:30 a.m.–10:00 a.m.

Closed: February 26, 10:00 a.m.–until adjournment.

Name of Committee: NCRR Initial Revenue Group—Research Centers in Minority Institutions Review Committee.

Scientific Review Administrator: Dr. John Lymangrover, National Institutes of Health, 1 Rockledge Center, Room 6106, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965. Telephone: (301) 435–0810.

Dates of Meeting: March 4–5, 1996.

Place of Meeting: Ramada Inn, Congressional Park, 1775 Rockville Pike, Rockville, MD 20852.

Open: March 4, 8:30 a.m.–11:30 a.m.

Closed: March 4, 11:30 a.m. until adjournment.

This notice is being published less than 15 days prior to the above meeting(s) due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory Animal Sciences and Primate Research; 93.333, Clinical Research; 93.371, Biomedical Research Technology; 93.389, Research Centers in Minority Institutions; 93.198, Biological Models and Materials Research; 93.167, Research Facilities Improvement Program; 93.214, Extramural Research Facilities Construction Projects, National Institutes of Health.)

Dated: February 14, 1996.

Susan F. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3876 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the review subcommittees of the National Institute of Child Health and Human Development Initial Review Group of March 1996.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions 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.

Name of Subcommittee: Maternal and Child Health Research Subcommittee.

Scientific Review Administrator: Dr. Gopal Bhatnagar, 6100 Executive Boulevard—Rm. 5E03, Telephone: 301–496–1485.

Date of Meeting: March 5, 1996.

Place of Meeting: Ramada Inn Bethesda, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

Time: 9:00 am adjournment.

Name of Subcommittee: Mental Retardation Research Subcommittee.

Scientific Review Administrator: Dr. Norman Chang, 6100 Executive Boulevard—Rm 5E03, Telephone: 301–496–1485.

Date of Meeting: March 7–8, 1996.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Time: March 7, 8:00 am–5:00 pm;

Time: March 8, 8:00 am–adjournment.

Name of Subcommittee: Population Research Subcommittee.

Scientific Review Administrator: Dr. A. T. Gregoire, 6100 Executive Boulevard—Rm. 5E03, Telephone: 301–496–1696.

Date of Meeting: March 28–29, 1996.

Place of Meeting: Natcher Conference Center, Building 45—Conferences Rms. E1–E2, 9000 Rockville Pike, Bethesda, Maryland 20892.

Time: March 28, 8:00 am–5:00 pm; March 29, 8:00 am–adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.864, Population Research and No. 93.865, Research for Mothers and Children, National Institutes of Health.)

Dated: February 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3880 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

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:

Purpose: To review grant applications.

Committee Name: National Institute of General Medical Sciences Initial Review Group, Biomedical Research and Research Training Review Committee A.

Date: March 12, 1996.

Time: 8 a.m.—adjournment.

Place of Meeting: National Institutes of Health, 45 Center Drive, Natcher Building, Conference Room D, Bethesda, MD 20892.

Contact Person: Dr. Carole Latker, 45 Center Drive, Room 1AS–13K, Bethesda, MD 20892, 301/594–2848.

Committee Name: Minority Programs Review Committee, MBRS.

Date: April 11–12, 1996.

Time: 8:30 a.m.—adjournment.

Place of Meeting: National Institutes of Health, 45 Center Drive, Natcher Building, Conference Rooms G1 & G2, Bethesda, MD 20892.

Contact Person: Dr. Michael Sesma, 45 Center Drive, Room 1AS–19H, Bethesda, MD 20892, 301/594–2048.

The 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.

(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: February 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3878 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; 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 meeting:

Name of Committee: Biomedical Library Review Committee.

Date: March 19, 1995.

Time: 9:00 a.m. to approximately 2:00 p.m.

Place: Fifth-floor Conference Room of the Lister Hill Center Building, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Dr. Roger W. Dahlen, Scientific Review Administrator and Chief, Biomedical Information Support Branch, EP, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301/496–4221.

Purpose/Agenda: To review and evaluate IAIMS grant applications

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.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: February 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3879 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; 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 Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: March 3–5, 1996.

Time: 8:00 p.m.

Place: Galatin Gateway Inn, Bozeman, Montana.

Contact Person: Dr. Nancy Shinowara, Scientific Review Administrator, 6701 Rockledge Drive, Room 5216, Bethesda, Maryland 20892, (301) 435–1173.

Name of SEP: Clinical Sciences.

Date: March 8, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: March 11, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Marcel Pons, Scientific Review Administrator, 6701 Rockledge Drive, Room 4196, Bethesda, Maryland 20892, (301) 435–1217.

Name of SEP: Chemistry and Related Sciences.

Date: March 11, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 5156, Telephone Conference.

Contact Person: Dr. Chhandra Ganguly, Scientific Review Administrator, 6701 Rocklege Drive, Room 5156, Bethesda, Maryland 20892, (301) 435–1739.

Name of SEP: Biological and Physiological Sciences.

Date: March 14–15, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Syed Amir, Scientific Review Administrator, 6701 Rockledge Drive, Room 6168, Bethesda, Maryland 20892, (301) 435–1043.

Name of SEP: Clinical Sciences.

Date: March 15, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Multidisciplinary Science.

Date: March 18, 1996.

Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5210, Telephone Conference.
Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

Name of SEP: Multidisciplinary Sciences.
Date: March 21–23, 1996.
Time: 7:00 p.m.
Place: Falmouth Inn, Woods Hole, MA.
Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

Name of SEP: Clinical Sciences.
Date: March 22, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4114, Telephone Conference.
Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Biological and Physiological Sciences.
Date: March 27, 1996.
Time: 8:30 a.m.
Place: The St. James Hotel, Washington, DC.
Contact Person: Dr. Nancy Pearson, Scientific Review Administrator, 6701 Rockledge Drive, Room 6178, Bethesda, Maryland 20892, (301) 435–1047.

Name of SEP: Multidisciplinary Sciences.
Date: March 28, 1996.
Time: 10:00 a.m.
Place: Georgetown Holiday Inn, Washington, DC.
Contact Person: Dr. Gerald Becker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5114, Bethesda, Maryland 20892, (301) 435–1170.

Name of SEP: Clinical Sciences.
Date: March 29, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Clinical Sciences.
Date: March 29, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4114, Telephone Conference.
Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Multidisciplinary Sciences.
Date: April 1, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Clinical Sciences.
Date: April 2, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4114, Telephone Conference.
Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Chemistry and Related Sciences.
Date: April 15–16, 1996.
Time: 8:00 a.m.
Place: Double Tree Hotel, Rockville, MD.
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

Name of SEP: Multidisciplinary Sciences.
Date: April 8–9, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: April 1, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Multidisciplinary Sciences.
Date: April 8–9, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Chemistry and Related Sciences.
Date: April 14–16, 1996.
Time: 6:00 p.m.
Place: Radisson Plaza Hotel, Baltimore, MD.
Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1166.

Name of SEP: Chemistry and Related Sciences.
Date: April 15–16, 1996.
Time: 8:00 a.m.
Place: Double Tree Hotel, Rockville, MD.
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

Name of SEP: Chemistry and Related Sciences.
Date: April 19–20, 1996.
Time: 6:00 p.m.
Place: Ritz Carlton, Tysons Corner, VA.
Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1166.

The 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. 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.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Date: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3883 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Amended Notice of Meeting

Due to the partial shutdown of the Federal Government, notice is hereby given of a postponement of the following meeting, as previously advertised in the Federal Register.

Division of Research Grants

A closed meeting of the Division of Research Grants Special Emphasis Panel-Biological and Physiological Sciences, was to have met March 1, 1996, 8:30 a.m., Hyatt Regency, Bethesda, Maryland, as published in the Federal Register on December 14, 1995 (60 FR 240 64175). The meeting has been changed to April 26, 8 a.m., Embassy Square Suites, Washington, D.C. As previously advertised, the meeting will be closed to the public.

Dated: February 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3877 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–4027–N–01]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act

(the ''Act''). The interest rate for debentures issued under Section 221(g)(4) of the Act during the six-month period beginning January 1, 1996, is 6 percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1996, is 6½ percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Financial Services Division, Department of Housing and Urban Development, 470 L'Enfant Plaza East, Room 3119, Washington, D.C. 20024. Telephone (202) 755–7450 ext. 125, or TDD (202) 708–4594 for hearing- or speech-impaired callers. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the Federal Register.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning January 1, 1996, is 6½ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 6½ percent for the six-month period beginning January 1, 1996. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the first six months of 1996.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980
9⅞	July 1, 1980	Jan. 1, 1981
11¾	Jan. 1, 1981	July 1, 1981
12⅞	July 1, 1981	Jan. 1, 1982
12¾	Jan. 1, 1982	Jan. 1, 1983
10¼	Jan. 1, 1983	July 1, 1983
10⅜	July 1, 1983	Jan. 1, 1984
11½	Jan. 1, 1984	July 1, 1984
13⅜	July 1, 1984	Jan. 1, 1985
11⅝	Jan. 1, 1985	July 1, 1985
11⅛	July 1, 1985	Jan. 1, 1986
10¼	Jan. 1, 1986	July 1, 1986
8¼	July 1, 1986	Jan. 1, 1987
8	Jan. 1, 1987	July 1, 1987
9	July 1, 1987	Jan. 1, 1988
9⅛	Jan. 1, 1988	July 1, 1988
9⅜	July 1, 1988	Jan. 1, 1989
9¼	Jan. 1, 1989	July 1, 1989
9	July 1, 1989	Jan. 1, 1990
8⅛	Jan. 1, 1990	July 1, 1990
9	July 1, 1990	Jan. 1, 1991
8¾	Jan. 1, 1991	July 1, 1991
8½	July 1, 1991	Jan. 1, 1992
8	Jan. 1, 1992	July 1, 1992
8	July 1, 1992	Jan. 1, 1993
7¾	Jan. 1, 1993	July 1, 1993
7	July 1, 1993	Jan. 1, 1994
6⅝	Jan. 1, 1994	July 1, 1994
7¾	July 1, 1994	Jan. 1, 1994
8⅜	Jan. 1, 1995	July 1, 1995
7¼	July 1, 1995	Jan. 1, 1996

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the ''going Federal rate'' of interest in effect at the time the debentures are issued. The term ''going Federal rate'', as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the six-month period beginning January 1, 1996, is 6 percent.

HUD expects to publish its next notice of change in debenture interest rates in July 1996.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.20(1). For that reason, no environmental finding has been prepared for this notice.

(Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Stephanie A. Smith,

Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–3762 Filed 2–20–96; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–058–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the next meeting of the Ukiah Resource Advisory Council will be held on Thursday, March 14, and Friday, March 15, 1996 in Arcata, California.

DATES: The meeting is scheduled for Thursday, March 14 and Friday, March 15, 1996.

SUPPLEMENTARY INFORMATION: The meeting on Thursday will begin at 10:00 a.m. at the Arcata Resource Area Office conference room, 1695 Heindon Road, Arcata, CA 95521. It will begin with a four hour training session on the basics of rangeland health. The remainder of the Thursday and all day Friday, March 15 will be spent on developing standards and guidelines for rangeland health for public lands administered by the Bureau of Land Management in northwestern California.

The meeting is open to the public with a public comment period scheduled for 1:00–2:00 p.m., Friday, March 15. Depending on the number of persons wishing to speak, a time limit may be imposed. Summary minutes of the meeting will be maintained at the Arcata, Clear Lake and Redding Resource Area Offices.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Bureau of Land

Management, Clear Lake Resource Area, 2550 N. State St., Ukiah, CA 95482, 707–468–4000.

Renee Snyder,

Clear Lake Resource Area Manager.

[FR Doc. 96–3829 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–40–P

[MT–920–05–1310—P; NDM 77460]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease NDM 77460, Bowman County, North Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as contained in Sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: February 9, 1996.

Karen L. Carroll,

Chief, Fluids Adjudication Section

[FR Doc. 96–3751 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–DN–P

[UTU–66056]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease UTU–66056 for lands in San Juan County, Utah, was timely filed and required rentals accruing from October 1, 1995, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease UTU–66056, effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Chief, Branch of Mineral Leasing Adjudication.

[FR Doc. 96–3861 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–DQ–M

[NV–930–1430–01; N–60480]

Notice of Realty Action: Lease/ Conveyance for Recreation or Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation or Public Purpose Lease/Conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for classification for lease/ conveyance for recreational or public purposes under the provisions of the Recreation and Public Purpose Act, as amended (43 U.S.C. 869 *et seq.*) The Diocese of Las Vegas proposes to use the land for a church facility.

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 29, SE¼SE¼NE¼, E½NE¼SE¼NE¼.

Containing 15.00 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals.

and will be subject to:

1. An easement for roads, public utilities, and flood control purposes in accordance with the transportation plan for Clark County.

2. Those rights for a telephone line which have been granted to Sprint Central Telephone-NV by grant no. N–53652 under the Act of October 21, 1976 [90 Stat. 2776; 43 U.S.C. 1761].

3. Those rights for a water pipeline which have been granted to Las Vegas Valley Water District grant no. N–55369 under the Act of October 21, 1976 [90 Stat. 2776; 43 U.S.C. 1761].

4. Those rights for a gas pipeline which have granted to Southwest Gas Corporation grant no. N–57864 under the Act of February 25, 1920 [41 Stat. 437; 30 USC 185 sec. 28].

Upon publication of this notice in the Federal Register, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for sales and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada 89108.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a church facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the Federal Register. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: February 9, 1996.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 96–3743 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–HC–P

[NM–040–1320–01]

Notice of Intent for a 30-Day Comment Period on the Draft Amendment to the Oklahoma RMP, Invitation for Public Involvement, Notice of Public Hearing and Call for Information on Coal, and Other Minerals and Resources

February 14, 1996.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, has prepared a Draft of the Resource

Management Plan Amendment (RMP) and Environmental Assessment (EA) for BLM-managed Federal minerals in Le Flore County, Oklahoma. The Code of Federal Regulations, Title 43, Subpart 1600 (43 CFR 1600) will be followed in the preparation of this plan amendment.

The public is invited to participate in this land use plan amendment effort. Written comments or suggested additional issues will be accepted through March 22, 1996. The BLM will hold a public hearing at which time oral comments and suggestions will be accepted. This notice is to solicit comment on coal resource information and indications of other interest and needs pursuant to 43 CFR 3420.1–2, for inclusion in the Oklahoma RMP Amendment. Coal companies, other mineral extraction companies, state and local governments, and the general public are encouraged to submit information to the BLM to assist in the review of the draft determinations of coal development potential and possible conflicts with other resources. If this information is determined to indicate development potential, further consideration for leasing will be given.

DATES: Comments relating to the Draft Resource Management Plan Amendment and the identification of additional issues, and responses to this call for coal resource information will be accepted through March 22, 1996.

ADDRESSES: Comments to be included with the draft document should be sent to: Bureau Land Management, 221 North Service Road, Moore, Oklahoma 73160. Proprietary data should be identified as such to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Catherine Wolff-White, Tulsa District, BLM, (405) 790–1010.

SUPPLEMENTARY INFORMATION: The draft Oklahoma RMP amendment will include the Federal coal lease application located in Section 3, T9N, R24E in Le Flore County, about 8 miles northwest of Spiro, Oklahoma. The property proposed to be leased, containing approximately 100 acres, is described as follows:

LOT 1 ALIQ NESW, SWSW, NWSESW

The issue addressed by this draft RMP amendment effort is coal leasing and development within the coal lease application area and an adjacent 100 acre tract. The development of this coal resource is the issue addressed in the draft RMP amendment. Industry and other interested parties are asked to provide any information that will be useful in meeting the requirements of the Federal Coal Management Program defined in 43 CFR 3420, including review of application of the coal planning screens and possibly future activity planning such as tract delineation. Information resulting from this hearing and any comments submitted to the BLM will be utilized in the draft finalization and implementation to determine potential for coal development and conflict with other resources within this 100-acre tract and any other tracts that may be determined to have additional interest.

LANDS ALREADY CONSIDERED IN THE OKLAHOMA RESOURCE MANAGEMENT PLAN, ADOPTED IN JANUARY 1994, NEED NOT BE ADDRESSED.

The issue of Federal coal leasing and developing includes:

1. Determining areas acceptable for further coal leasing consideration with standard stipulations;

2. Determining areas acceptable for consideration with special stipulations;

3. Determining areas unacceptable for further coal leasing consideration.

The BLM will apply the coal development potential, unsuitability criteria, multiple use conflict and consultation screens in order to make these determinations.

The type of information needed includes, but is not limited to, the following:

1. Location:

a. Federal coal tracts desired by mining companies should include a narrative description with areas delineated on a map with a scale of not less than ½ inch to the mile.

b. Descriptions of both public and private industry coal users in the general region.

2. Quantity needs (tonnage, dates) for both public and private industry coal users and coal developers.

3. Quality needs (by type and grade) for end users of the coal.

4. Coal reserve drilling data which may pertain to the planning area.

5. Information relating to surface and mineral ownership:

a. Surface owner consents previously granted, whether consent is transferrable, surface owner leases with coal companies.

b. Non-federal, or fee coal ownership adjacent to Federal tracts currently leased or mined.

6. Other resource values occurring within the planning area which may conflict with coal development:

a. Describe the resource value, and locate it on a map at least ½ inch delineation.

b. State the reasons the particular resource would conflict with coal development.

Any individual, business entity, or public body may participate in this process by providing coal or other resource information under this call. This planning issue is presented for public hearing and is subject to change based upon such public hearing. Comments should be received by CLOSE OF BUSINESS March 22, 1996. The planning team will seek public involvement throughout the planning amendment process. A formal public hearing/open house will be held to provide the public an opportunity to participate in this Draft Amendment effort.

Notice is hereby given that the public hearing will start at 7:00 p.m. and is scheduled for: March 19, 1996 at the High School, Poteau, OK.

Complete records of all phases of the planning process will be available for public review and comment at the Bureau of Land Management, Moore office, 221 North Service Road, Moore, Oklahoma.

The final RMP amendment documents will be available upon request.

Dated: February 14, 1996.

Jim Sims,

District Manager.

[FR Doc. 96–3830 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–FB–M

National Park Service

Cape Cod National Seashore South Wellfleet, Massachusetts Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, March 15, 1996.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet at 1 p.m. at Park Headquarters, Marconi Station for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2 Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Report of Superintendent

GMP Update
Lighthouses
Race Point Road
Land Swap
No. Truro AFS
Government Performance & Results Act
6. Dune Shack Policy—R. Philbrick
7. Use & Occupancy Subcommittee—W. Hammatt
8. Oil Spill Preparedness
9. New Business
10. Agenda for next meeting
11. Date for next meeting
12. Public comment
13. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: February 12, 1996.

Chrysandra L. Walter,

Deputy Field Director, Northeast Field Area.

[FR Doc. 96–3814 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–P

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: Wednesday, February 21, 1996; 1:30 p.m. until 4:30 p.m.

ADDRESSES: Commission Offices, 10 E. Church Street, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Acting Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018 (610) 861–9345.

Dated: February 5, 1996.

David B. Witwer,

Acting Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 96–3813 Filed 2–20–96; 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 February 10, 1996. 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, D.C. 20013–7127. Written comments should be submitted by March 7, 1996.

Carol D. Shull,

Keeper of the National Register.

COLORADO

Fremont County

Atwater, Samuel H., House, 821 Macon Ave., Canon City, 96000241

FLORIDA

Escambia County

Emanuel Point Shipwreck Site, Address Restricted, Pensacola vicinity, 96000227

Gulf County

Centennial Building, 300 Allen Memorial Way, Port St. Joe, 96000230

Polk County

Jenks, Holland, House, 116 Raintree Ct., Auburndale, 96000254

GEORGIA

Sumter County

Dismuke Storehouse, 505 N. Lee St., Americus, 96000247

IOWA

Buchanan County

Purdy, Eliphalet W. and Catherine E. Jaquish, House, 215 3rd Ave. SW., Independence, 96000237

Floyd County

Dr. Salsbury's Laboratories, Main Office and Production Laboratory Building, 500 Gilbert St., Charles City, 96000235

Sac County

Seven Oaks, 707 Audubon St., Sac City, 96000236

LOUISIANA

Pointe Coupee Parish

Poydras High School, 460 W. Main St., New Roads, 96000229

MAINE

Androscoggin County

Bagley—Blis House, 1290 Royalsborough Rd., South Durham vicinity, 96000242

Aroostook County

Olsson, Anders and Johanna, Farm, 114 West—Lebanon Rd., New Sweden vicinity, 96000245

Somerset County

Birch Island House, Birch Island, Holeb vicinity, 96000246

Norridgewock Female Academy, US 2 N side, .05 mi. W of jct. with ME 8, Norridgewock, 96000244

Washington County

Wallace, Everett, House, US 1 W side, .05 mi. N of jct. with Wyman Rd., Milbridge, 96000243

York County

Berwick Academy Historic District (Boundary Increase), Academy St. E side, .15 mi. S of jct. with ME 236, South Berwick, 96000233

MISSISSIPPI

Marshall County

Byhalia Historic District, Roughly, along Church, Chulahoma (MS 309) and Senter Sts., Byhalia, 96000256

TENNESSEE

Bedford County

Fly Manufacturing Company Building, 204 S. Main St., Shelbyville, 96000226

Rutherford County

Black, Thomas C., House, 4431 Lebanon Rd., Murfreesboro vicinity, 96000231

Washington County

Tree Streets Historic District, Roughly bounded by S. Roan, W. Chestnut, Franklin and Virginia Sts. and University Pkwy., Johnson City, 96000232

VERMONT

Lamoille County

Peoples Academy—Copley Building, Grout Observatory and Community Bandshell (Educational Resources of Vermont MPS), 5 Copley Ave., Morristown, 96000255

Washington County

Goddard College Greatwood Campus, Jct. of US 2 and VT 214, Plainfield, 96000253

Windsor County

Reading Town Hall (Historic Government Buildings MPS) Jct. of VT 106 and Pleasant St., Reading, 96000252

WISCONSIN

Dane County

Longfellow School, 1010 Chandler St., Madison, 96000239

Marathon County

Marchetti, Louis, House, 111 Grant St., Wausau, 96000240

Marquette County

Montello Commercial Historic District, Roughly, parts of W. Montello and Main Sts. at the Montello R. and the quarry on E. Montello St., Montello, 96000238

Rock County

Benton Avenue Historic District, Roughly bounded by Benton Ave., Wilton Ave., Sherman Ave., Richardson St., Blaine Ave. and Prairie Ave., Janesville, 96000251

Walworth County

Delavan's Vitrified Brick Street, 100—300 blocks of E. Walworth Ave., Delavan, 96000234

Waukesha County

East Broadway Historic District, Roughly, Broadway from Fisk Ave. to Morningside Dr., Waukesha, 96000249

Winnebago County

North Main Street Historic District, Roughly, N. Main St. from Parkway Ave. to Algoma Blvd., and Market St. NW. to High Ave., Oshkosh, 96000250

Omro Downtown Historic District, Jct. of Main St. and S. Webster Ave., Omro, 96000248

WYOMING

Laramie County

Pine Bluffs High School, Jct. of 7th and Elm Sts., Pine Bluffs, 96000228

[FR Doc. 96–3740 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–P

Availability of Plan of Operations and Environmental Assessment for Continuing Operations for 2 Gas Wells; Kodiak Drilling Company, 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 Kodiak Drilling Company a Plan of Operations for continuing operations for 2 gas wells within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for a period of 30 days from publication date of this notice in the Federal Register at 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 Saint 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 790–36 and will be sent upon request, subject to a charge for copying.

Dated: February 13, 1996.

Patrick C. McCrary,

Superintendent, Lake Meredith National Recreation Area.

[FR Doc. 96–3817 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Assessment for Plugging and Abandonment of The Djay 4 Gas Well; Phillips Petroleum Company 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 Phillips Petroleum Company a Plan of Operations for plugging and abandonment of the Djay 4 gas well within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for a period of 30 days from publication date of this notice in the Federal Register at 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 Saint 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, subject to a charge for copying.

Dated: February 13, 1996.

Patrick C. McCrary,

Lake Meredith National Recreation Area.

[FR Doc. 96–3816 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Assessment for Continuing Operations for 2 Gas Wells; Sanabi Oil Company 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 Sanabi Oil Company a Plan of Operations for continuing operations for 2 gas wells within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for a period of 30 days from publication date of this notice in the Federal Register at 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 Saint 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, subject to a charge for copying.

Dated: February 13, 1996.

Patrick C. McCrary,

Superintendent, Lake Meredith National Recreation Area.

[FR Doc. 96–3815 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules on Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: April 22–23, 1996.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of

the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3737 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: April 18–19, 1996.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3736 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: April 29–30, 1996.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3738 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: March 21–22, 1996.

ADDRESSES: U.S. Bankruptcy Court Office Building, One Memphis Place, Suite 945, 200 Jefferson Avenue, Memphis, Tennessee.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3735 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No 95–30]

Philip G. Marais, D.D.S., Denial of Application

On January 25, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Philip G. Marais, D.D.S., (Respondent) of Long Beach, California, notifying him of an opportunity to show cause as to why the DEA should not deny his pending application for a DEA Certificate of Registration as a practitioner, under 21 U.S.C. 823(f), as being inconsistent with the public interest.

On May 19, 1995, the Respondent filed a request for a hearing, and on June 8, 1995, the Government filed a Motion for Summary Disposition, alleging that the Respondent was no longer authorized to handle controlled substances in the State of California. The motion was supported by copies of the July 15, 1994, Decision After Nonadoption by the State of California Board of Dental Examiners (Dental Board), and a March 10, 1995, Default Decision in which the Dental Board reimposed a seven-year revocation of the Respondent's license, effective April 10, 1995.

On June 9, 1995, Administrative Law Judge Mary Ellen Bittner sent the Respondent, via certified, return receipt mail, an Order affording him until June 30, 1995, to file a response to the Government's motion. That Order was returned to the Office of the Administrative Law Judge by the U.S. Postal Service on June 19, 1995, and re-sent to the Respondent via certified, return receipt mail on June 22, 1995, extending the response date to July 10, 1995. The Respondent did not file a response or make any other attempt to deny that his state license had been revoked.

On July 20, 1995, Judge Bittner issued her Opinion and Recommended Decision, granting the Government's motion for summary disposition, and recommending that the Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her decision, and on August 28, 1995, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts the Opinion and Recommended Decision of the Administrator Law Judge, with one noted exception, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that on July 29, 1992, the Respondent voluntarily surrendered DEA Certificate of Registration AM8093875, based on his alleged failure to comply with Federal requirements pertaining to controlled substances. On August 27, 1992, the Respondent applied for a new DEA Certificate of Registration as a practitioner. On July 15, 1994, the Dental board issued a Decision After Nonadoption, ordering the suspension of the Respondent's license to practice dentistry (license) for sixty (60 days, effective August 15, 1994. In addition, the Dental board revoked the Respondent's license, but stayed the revocation and placed the Respondent on probation for seven (7) years. However, on March 10, 1995, the Dental

Board issued a Default Decision, in which it revoked the Respondent's license, effective April 10, 1995.

The DEA does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state in which he conducts business to dispense controlled substances. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). The DEA has consistently so held. See Lawrence R. Alexander, M.D., 57 FR 22256 (1992); Bobby Watts, M.D., 53 FR 11919 (1988); Robert F. Witek, D.D.S., 52 FR 47770 (1987).

Here it is clear that the Respondent is not currently authorized to practice dentistry in the State of California. From this fact, Judge Bittner inferred that since the Respondent was not authorized to practice dentistry, he also was not authorized to handle controlled substances. The Deputy Administrator agrees with Judge Bittner's inference, and he notes that the Respondent has not filed an exception to this portion of her decision. Therefore, because the Respondent lacks state authority to handle controlled substances, he currently is not entitled to a DEA registration.

The Deputy Administrator also finds that Judge Bittner properly granted the Government's motion for summary disposition. It is well-settled that when no question of fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., 58 FR 51104 (1993) (finding that ''Congress did not intend administrative agencies to perform meaningless tasks.''); see also Phillip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom Kirk V. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11873 (1978); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977).

Judge Bittner recommended that the Respondent's registration be revoked. However, the Deputy administrator finds that, per the record, the Respondent does not currently hold a DEA registration, since he voluntarily surrendered it in July 1992. Therefore, the only matter pending is the Respondent's application for a new Certificate of Registration filed in August 1992. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that the Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective March 22, 1996.

Dated February 14, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–3831 Filed 2–20–96; 8:45 am]

BILLING CODE 4410–09–M

Immigration and Naturalization Service

[INS No. 1726–96]

Notice of Final Environmental Impact Statement

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: *Decision.* The United States Department of Justice, Immigration and Naturalization Service (INS), has decided to proceed with the construction of the Federal Detention Center in Buffalo, New York.

The INS, in conjunction with the United States Marshals Service (SMS), proposes to construct and oversee operation of a 454-bed Federal Detention Center (FDC) on a site of approximately 22.5 acres located in Genesse County, the Town of Batavia, Buffalo, New York. The FDC will be designed to provide detention facilities for individuals within the jurisdiction of INS and/or USMS while awaiting trial, awaiting sentencing, facing deportation proceedings, or who may have been charged with immigration violations and may have been found guilty of additional crimes, or having other business before the Federal courts for which sentences have been served at correctional facilities. The initial construction stage of the FDC will provide 254 beds. The facility may be expanded to provide a total of 454 beds. More detailed information describing programs, operations, and architectural and site development features of the FDC is included in a Final Environmental Impact Statement (FEIS) dated December 22, 1995.

ADDRESSES: Questions concerning the Decision or requests for copies of the Environmental Impact Statement for the Federal Detention for the Federal Detention Center at Buffalo, New York, may be directed to:

John W. Clarke, Director—Facilities and Space Management, U.S. Immigration and Naturalization Service, Administrative Center Burlington, 70 Kimball Avenue, South Burlington, Vermont 05403–6813, Telephone: (802) 660–1154

or

Ramon Garcia, Project Manager—Planning Branch, U.S. Immigration and Naturalization Service, Facilities and Engineering Division, 425 I Street, NW., Room 2060, Washington, DC 20536, Telephone: (202) 616–2588.

Dated: February 13, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–3802 Filed 2–20–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–31,385]

Johnon Controls Battery Group, Inc. Louisville, KY; Notice of Negative Determination on Reconsideration

On November 30, 1995, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. The notice was published in the Federal Register on December 12, 1995 (60 FR 63733).

The Department's initial denial was based on the fact that criterion (3) of the group eligibility requirements of the Trade Act was not met. The investigation revealed the production at the subject plant was being transferred domestically. Other findings showed there were no sales, production or employment declines at the firm prior to the implementation of the transfer.

The petitioner alleges layoffs were attributable to a shift in production of automobile batteries from the subject firm to a foreign owned facility where they produce both new and aftermarket batteries. The petitioner claims that the batteries are being returned to the United States in new cars. However, the Department must examine the impact of imports of products like and directly competitive with the product produced at the subject firm, which in this case is automobile batteries.

Findings on reconsideration show that the ''contributed importantly'' test of the increased import criterion of the Group Eligibility Requirements of the Trade Act was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The Department surveyed the customers of the subject firm's Louisville, Kentucky location. Customers report that they did not increase their imports

of automobile batteries while reducing their purchases from the subject firm during the time period relevant to the investigation. Other findings show that the subject firm's Louisville, Kentucky location did not import automobile batteries.

Other findings on reconsideration show that the value of U.S. imports of automobile batteries declined in 1994 compared to 1993, and in twelve-month period of October through September 1994–1995 compared to the same twelve-month time period of 1993–1994.

Additionally, the petitioner claims that the Department issued trade adjustment assistance (TAA) certifications for other Johnson Control locations. The Department's review of these TAA certifications shows that they were issued because all the worker group criteria necessary for certification were met. Each worker group petition is determined for certification on its own merits. The Trade Act was not intended to provide TAA benefits to everyone who is in some way affected by foreign competition but only to those who experienced a decline in sales or production and employment and an increase in imports of like or directly competitive products which ''contributed importantly'' to declines in sales or production and employment.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Johnson Controls Battery Group, Inc., Louisville, Kentucky.

Signed at Washington, DC, this 6th day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3855 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January and February 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,638; Greenfield Research, Inc., Howe, IN
TA–W–31,601; Continental EMSCO Co., Garland, TX
TA–W–31,674; Columbia Natural Resources, Inc., Charleston, WV
TA–W–31,632; Mustang Fuel Corp., Oklahoma City, OK
TA–W–31,655; AT&T Microelectronics, Clark, NJ
TA–W–31,565; Eastland Woolen Mills, Inc., Corinna, ME
TA–W–31,566; Striar Textile, Orono, ME

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,687; Mead School & Office Products Div., Salem, OR
TA–W–31,650; Carpenter Manufacturing; Mitchell, IN
TA–W–31,503; Charisma Chairs, A Div. of Flexsteel Industries, Inc., Sweetwater, TN
TA–W–31,815, TA–W–31,816; American National Can Co., St. Louis, MO & Pevely, MO
TA–W–31,800, TA–W–31,801; Rexam DSI, dba Shore Reboul, Freeport, NY
TA–W–31,675; Excell Products Corp., Clifton, NJ
TA–W–31,705; Sierra Technologies, Inc., Siera Research Div, Buffalo, NY
TA–W–31,763; US Enertek Production Equipment Div., Farmington, NM

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,567; Bass Shoe Outlet, #302, Lebanon, MO
TA–W–31,821; Fantasia Assessories, New York, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–31,714; OSRAM/Sylvania, Warren, PA
TA–W–31,673; Central Operating Co (Appalachian Power Co), New Haven, WV

The investigation revealed that criterion (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–31,820; Everest & Jennings, Earth City Manufacturing Facility, Earth City, MO: January 3, 1995.
TA–W–31,662; Grossman & Sons, Inc., Passaic, NJ: November 14, 1994.
TA–W–31,872; Lewistown Specialty Yarn, Inc., Lewistown, PA: January 22, 1995.
TA–W–31,692; Reatta Tenn-Partners, Inc., Maynardville, TN: November 13, 1994.
TA–W–31,739; International Paper, Peoria, IL: December 4, 1994.
TA–W–31,864; Adrian Manufacturing, Inc., El Paso, TX: January 5, 1995.
TA–W–31,795; Cutting Services, Inc., El Paso, TX: December 12, 1994.
TA–W–31,849; Tultex Corp., Marion NC: January 4, 1995.
TA–W–31,827; Major League, Inc., Jasper, GA: December 27, 1994.
TA–W–31,618; Count Romi, Ltd, New York, NY: October 30,1 994.
TA–W–31,607; Signal Apparel Co., Inc., Rutledge Div., Bean Station, TN: October 18, 1994.
TA–W–31,649; Columbia Sportswear Co., Portland, OR: November 8, 1994.
TA–W–31,794; SmithKline Beecham Consumer Healthcare, Clifton, NJ: December 20, 1994.
TA–W–31,813; Siemens Energy & Automation, Inc., Residential Products Div., El Paso, TX: December 15, 1994.
TA–W–31,615; Dalen Resource Oil & Gas Co., Dallas, TX & Operating in

The Following States: A; TX; B; CA, C; LA, D; OK, E; UT, F; WY: October 24, 1994.

TA–W–31,703; Carter & Mayes, Summerville, GA: November 10, 1994.

TA–W–31,787; The Lee Apparel Co., Inc., Fayetteville, TN: December 1, 1994.

TA–W–31,634; Carter Footwear, Inc., Wilkes Barre, PA: November 9, 1994.

TA–W–31,755; Marshall Electric Corp., Rochester, IN: December 8, 1994.

TA–W–31,661; Westchester Lace, Inc., West New York, NJ: November 14, 1994.

TA–W–31,598; CMC Manufacturing, Inc., Corinth, MS: October 17, 1994.

TA–W–31,689 & A; Fruit of The Loom, Panola Mills, Batesville, MS: November 8, 1994. & Princeton, KY: November 9, 1994.

TA–W–31,676 & A; Fluor Daniel (NSPOR), Inc., Casper WY & Rifle, CO: November 17, 1994.

TA–W–31,612; Rita's Sportswear, Moscow, PA: October 26, 1994.

TA–W–31,653; Akzo Nobel Salt, Inc., Manistee, MI: November 7, 1994.

TA–W–31,696; Josph T. Ryerson & Son, Inc., Jersey City, NJ: October 23, 1994.

TA–W–31,697; Superior Pants Co., Athens, GA: November 17, 1994.

TA–W–31,620; Elaine Sportswear, Inc., New York, NY: September 2, 1994.

TA–W–31,672; CMC Apparel, Evergreen, AL: November 17, 1994.

TA–W–31,686; Maxcess Technologies, Inc., aka Mult-A-Frame Corp., Pontiac, MI: November 13, 1994.

TA–W–31,690; Philips Consumer Electronics Co., Greenville, TN: November 11, 1994.

TA–W–31,735; American Hardwood, Inc., Taulatin, OR: December 3, 1994.

TA–W–31,608; Paxar Woven Label Group, Paxar Corp., Patterson, NJ: October 20, 1994.

TA–W–31,764; Elf Atochem North America (Ozark-Mahoning Co), Risiclare, IL: December 12, 1994.

TA–W–31,704; Parker & Parlsey Petroleum USA, Inc., Midland, TX: June 30, 1994.

TA–W–31,592, TA—31,593; Kentile, Inc., Chicago, IL & South Plainfield, NJ: October 9, 1994.

TA–W–31,660; The Elkins Co., Elkins, WV: November 14, 1994.

TA–W–31,636; Frank 1X and Sons, Inc., Charlottesville, VA: November 7, 1994.

TA–W–31,667, TA–W–31,668; Amity Leather Products, Albuquerque, NM and Goldsboro, NC: November 22, 1994.

TA–W–31,694, TA–W–31,695; Snyder Oil Corp., Headquartered in Fort Worth, TX, Operating Throughout the State of Texas & Operating Throughout the State of Colorado: November 17, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January and February, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determination NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00704; AT&T Microelectronics, Clark, NJ

NAFTA–TAA–00756; U.S. Enertek, Production Equipment Div., Farmington, NM

NAFTA–TAA–00758 & A; American National, NO & St. Louis, MO

NAFTA–TAA–00677; Triangle Wire & Cable, Inc., Glen Dale, WV

NAFTA–TAA–00687; Americana Knitting Mills of Miami, Inc., Sweater Div., Opa Locka, FL

NAFTA–TAA–00729; Rexam DSI, Inc., dba Shore Reboul, Freeport, NY

NAFTA–TAA–00676; Greenfield Research, Inc., Howe, IN

NAFTA–TAA–00726; EIS Brake Parts, Div. of Standard Motor Products, Inc, Rural Retreat, VA

NAFTA–TAA–00699; McAllen Separation Co., Charlotte, NC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00735; Synergy Services, Inc., aba Synergy Maintenance Service, El Paso, TX

NAFTA–TAA–00765; L.E. Matchett Trucking Co Ltd, Spokane, Div., Veradale, WA

The investigation revealed that the workers of the subject firm do not produce an article with in the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–00724; Gould Shawmut, Circuit Protection Div (CPD), Newburyport, MA

Sales and production at Gould Shawmut, Circuit Protection Div (CPD), Newburyport, MA did not decline during the relevant periods.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00694 & A; Flour Daniel (NPOSR), Inc, Casper, WY and Rifle, CO: November 21, 1994.

NAFTA–TAA–00754; Tultex Corp., Marion, NC: January 4, 1995.

NAFTA–TAA–00716; Crown Cork & Seal Co., Inc., Aerosol and Sanitary Can Manufacturing Plant, Philadelphia, PA: December 8, 1994.

NAFTA–TAA–00774; UCAR Carbon Co., Inc., Columbia, TN: January 15, 1995.

NAFTA–TAA–00755; Omak Wood Products, Inc., Omak, WA: December 26, 1994.

NAFTA–TAA–00756; SmithKline Beecham Consumer Healthcore, Clifton, NJ: December 20, 1994.

NAFTA–TAA–00772; F.G. Montabert Co., Midland Park, NJ: December 16, 1994.

NAFTA–TAA–00742; Lewistown Specialty Yarn, Inc., Lewistown, PA: September 29, 1994.

NAFTA–TAA–00763; Everest & Jennings, Earth City Manufacturing Facility, Earth City, MO: January 3, 1995.

NAFTA–TAA–00705; American Standard, Inc., Plumbing Products Div., Paintsville, KY: November 16, 1994.

NAFTA–TAA–00732; Cutting Services, Inc., El Paso, TX: December 13, 1994.

I hereby certify that the aforementioned determinations were issued during the month of January and February 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 7, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3856 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–30–M

Iowa Assemblies, Inc., Lucas, Iowa; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

[NAFTA–00303]

NAFTA—00303A Mt. Ayr, NAFTA—00303B Osceola
NAFTA—00303C Murray, NAFTA—00303D Lamoni

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on January 12, 1995, applicable to all workers at Iowa Assemblies, Inc. in Lucas, Mt. Ayr and Osceola, Iowa. The certification was amended on December 5, 1995, to include workers of Iowa Assemblies in Murray, Iowa.

At the request of the State Agency, the Department reviewed the subject certification. The company reports that worker separations will occur at the Iowa Assemblies automotive wiring harnesses and wiring assembly plant in Lamoni, Iowa. Accordingly, the Department is amending the certification to include these workers.

The intent of the Department's certification is to include all workers of Iowa Assemblies, Inc. adversely affected by increased imports of wiring harnesses and assembly from Mexico or Canada.

The amended notice applicable to NAFTA–00303 is hereby issued as follows:

''All workers of Iowa Assemblies, Inc., Lucas (NAFTA–00303), Mt. Ayr (NAFTA–00303A), Osceola (NAFTA–00303B), Murray (NAFTA–00303C), and Lamoni, Iowa (NAFTA–00303D) engaged in employment related to the production of wiring harnesses and assembly who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington DC this 31st day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3857 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for collection of information under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35):

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Parts 20, 30, 40, 61, 70, and 72, Termination or Transfer of Licensed Activities: Recordkeeping Requirements.

3. *The form number if applicable:* Not applicable.

4. *How often is the collection required:* A one-time transfer of records pertaining to decommissioning, offsite releases, and waste disposal to the responsible licensee when licensed activities are transferred or assigned to another licensee, in accordance with the terms of the license. A one-time forwarding of records pertaining to decommissioning, offsite releases, and waste disposal to the cognizant regulatory body once a license is terminated. There will also be a one-time forwarding of records concerning low-level waste facilities to the disposal site owner once the facility is closed and the license transferred to the disposal site owner, and a one-time forwarding of records to the cognizant regulatory body and the party responsible for institutional control of the site once that body terminates the license.

5. *Who will be required or asked to report:* Part 30, 40, 61, 70 and 72 NRC and Agreement State licensees who are transferring, assigning, or terminating their licenses.

6. *An estimate of the number of responses:* 962.

7. *The estimated number of annual respondents:* 962 per year.

8. *An estimate of the number of hours needed annually to complete the requirement or request:* 4,999 hours for all 962 licensees affected by the rule or an average of 5.2 hours per licensee.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Applicable.

10. *Abstract:* The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the disposition of certain records when a licensee terminates licensed activities or licensed activities are transferred to another licensee. The final rule requires a licensee to transfer records pertaining to decommissioning, and certain records pertaining to offsite releases and waste disposal, to the new licensee if licensed activities will continue at the same site, and it requires all affected licensees to forward these records to the NRC when a license is terminated.

Submit by March 22, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC 20555–0001. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The

document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the OMB reviewer by March 22, 1996: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0014, 3150–0017, 3150–0020, 3150–0009, and 3150–0132, 3150–0135), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of February, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–3818 Filed 2–20–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation and Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval of a procedure for on site disposal of silt containing low levels of radioactivity at the Vermont Yankee Nuclear Power Station (VYNPS), pursuant to 10 CFR 20.2002, as requested by the Vermont Yankee Nuclear Power Corporation, (the licensee). VYNPS is located in Windham County, Vermont.

Environmental Assessment

Identification of the Proposed Action

The proposed action would authorize the on site relocation of silt containing low levels of radioactivity which was or will be removed from the cooling tower basins at VYNPS.

The proposed action is in accordance with the licensee's application dated August 30, 1995.

The Need for the Proposed Action

The proposed action will eliminate the need to hold the material for future disposal in a 10 CFR Part 61 licensed facility and will save space at licensed facilities for waste materials containing higher levels of activity. It will also save substantial cost.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action will minimize the risk of unexpected exposure. The licensee's proposal was evaluated against the staff's guidelines for on site disposal and found to be acceptable. The potential exposure to members of the general public from the radionuclides in the silt was determined to be less than 1 mrem/year. The potential exposure to an inadvertent intruder following licensee release of the disposal site was determined to be less than 5 mrem/year. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station, dated July 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on December 21, 1995, the staff consulted with the Vermont State official, Mr. William Sherman of the Vermont Department of Public Service, regarding the environmental impact of the proposed action. The State official questioned the impact of the proposed action on decommissioning of VYNPS. At the time of decommissioning, the licensee will be required to demonstrate that the activity levels on the site are sufficiently low to permit releasing the site for general use.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 30, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT.

Dated at Rockville, Maryland, this 13th day of February 1996.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3819 Filed 2–20–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Intention To Request Review of a Revised Information Collection; Forms RI 34–1 and RI 34–3

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection: Forms RI 34–1 and RI 34–3. RI 34–1, Financial Resources Questionnaire, collects detailed financial information for use by OPM in determining whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. RI 34–3, Notice of Debt due Because of Annuity Overpayment, informs the annuitant that a debt is due, describes the cause for the overpayment,

and collects information from the annuitant regarding payment of the debt.

Approximately 1,561 RI 34–1 and 520 RI 34–3 forms will be completed per year. Each form requires approximately 1 hour to complete. The annual burden is 1,561 hours and 520 hours respectively.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before April 22, 1996.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3770 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

Notice of Intention To Request Review of a Revised Information Collection; RI 25–15

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection. RI 25–15, Notice of Change in Student's Status, is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

We estimate 2,500 certifications will be processed annually. Each form takes approximately 10 minutes to complete. The annual estimated burden is 417 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before April 22, 1996.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3769 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

Notice of Request to OMB for Approval for Continuation of Form OPM–1386B

AGENCY: Office of Personnel Management (OPM).

ACTION: Proposed information collection submitted for public comment and recommendations.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506–3507), the Office of Personnel Management (OPM) is submitting to the Office of Management and Budget a request to extend its approval of form OPM—1386B, Applicant Race and National Origin Questionnaire, which gathers information concerning the race and national origin of applicants for employment under the Outstanding Scholar provision of the Luevano Consent Decree, 93 F.R.D. 68 (1981).

This proposed extension was also reported on October 27, 1995 at 60 FR 55070. At that time, the public was invited to comment on the need for this information, its practical utility, the accuracy of OPM's burden estimate, and on ways to minimize that reporting burden. During the sixty-day comment period OPM received only one substantive comment, which was that OPM should specify that the current version of form 2386, for which an approval extension is sought, is Form OPM–1386B. That fact is made explicit in the current announcement and all persons who requested copies of the form were sent Form OPM–1386B.

For copies of the proposal, contact James M. Farron at (202) 418–3208 or by e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before March 22, 1996.

ADDRESSES: Send or deliver any comments to BOTH of the following addresses: Patricia Paige, Director, Staffing Reinvention Office, Employment Service, U.S. Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415; and Joseph Lackey, OPM Desk Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mike Carmichael or Christina Gonzales, (202) 606–0830, FAX (202) 606–2329.

SUPPLEMENTARY INFORMATION:

Purpose of Form OPM–1386B

A Federal court decree, issued in 1981 and still binding, requires recordkeeping on Federal employment selection procedures, including race and national origin (RNO) data, to determine the ''relative impact of the procedure upon blacks and upon Hispanics as compared with non-Hispanic whites.'' OPM and other agencies use form OPM–1386B to collect the RNO data from applicants being considered for selection under the Outstanding Scholar provision of the decree. Using the standardized form makes it easier to collect and consolidate the required data for use by the Federal Government and by the plaintiffs. OPM and agencies do not need to use form OPM–1386B to collect data on applicants being considered through traditional examining processes; court-required data on those applicants is collected as part of an application process that is not required for Outstanding Scholars.

The form OPM–1386B is not considered in the selection process, but is used to collect statistical data.

Annual Reporting Burden

Approximately 100,000 forms will be processed annually. The average estimated response time is 5 minutes for a total public burden of 8,333 hours.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3767 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on January 8, 1996 (61 FR 565). Individual authorities established or revoked under Schedules A and B and established under Schedule C between December 1, 1995, and December 31, 1995, appear in the listing below.

Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked in December 1995.

Schedule B

No Schedule B authorities were established or revoked in December 1995.

Schedule C

The following Schedule C authorities were established in December 1995:

Department of Agriculture

Area Director, Midwest Region to the Administrator, Agricultural Stabilization and Conservation Service. Effective December 13, 1995.

Department of Commerce

Director, Office of Legislative Affairs to the Assistant Secretary for Oceans and Atmosphere. Effective December 6, 1995.

Special Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective December 8, 1995.

Director, Office of Public Affairs to the Under Secretary for International Trade, International Trade Administration. Effective December 13, 1995.

Department of Defense

Personal and Confidential Assistant to the General Counsel. Effective December 13, 1995.

Department of Energy

Program Specialist to the Director, International Policy and Analysis Division. Effective December 5, 1995.

Assistate Director to the Director, Office of Nuclear Energy, Science and Technology. Effective December 22, 1995.

Department of Health and Human Services

Special Assistant (Speechwriter) to the Director of Speechwriting. Effective December 3, 1995.

Speechwriter to the Director of Speechwriting, Office of the Deputy Assistant Secretary for Public Affairs (Media). Effective December 6, 1995.

Confidential Assistant to the Administrator, Health Care Financing Administration. Effective December 10, 1995.

Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services). Effective December 10, 1995.

Department of Labor

Special Assistant to the Assistant Secretary for Policy. Effective December 8, 1995.

Special Assistant to the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs. Effective December 19, 1995.

Department of State

Legislative Management Officer to the Assistant Secretary. Effective December 18, 1995.

Department of the Treasury

Senior Advisor to the Comptroller of the Currency. Effective December 5, 1995.

Policy Advisor to the Senior Advisor to the Assistant Secretary (Enforcement). Effective December 8, 1995.

Public Affairs Specialist to the Director, Office of Public Affairs. Effective December 22, 1995.

Federal Maritime Commission

Special Assistant to the Commissioner. Effective December 22, 1995.

Office of Science and Technology Policy

Research Assistant to the Director, Office of Science Technology and Policy. Effective December 1, 1995.

Deputy Director for Management and General Counsel to the Director, Office of Science and Technology Policy. Effective December 11, 1995.

President's Commission on White House Fellowships

Special Assistant to the Director, Presidential Commission on White House Fellowships. Effective December 4, 1995.

Small Business Administration

Special Assistant to the Assistant Administrator for Women's Business Ownership. Effective December 27, 1995.

U.S. International Trade Commission

Staff Assistant to the Chairman. Effective December 14, 1995.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., p.218

Office of Personnel Management.

Lorranie A. Green,

Deputy Director.

[FR Doc. 96–3768 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Incyte Pharmaceuticals, Inc., Common Stock, $.001 Par Value) Fine No. 1–2400

February 14, 1996.

Incyte Pharmaceuticals, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on November 30, 1995 to withdraw the Security from listing on the Amex and instead, to list the Security on the Nasdaq National Market (''Nasdaq/NM'').

The decision of the Board followed a thorough study of the management of the matter and was based upon the belief that the Company's stockholders would benefit from greater liquidity and broader research coverage by having the Security listed on the Nasdaq National Market rather than the Amex.

Any interested person may, on or before March 7, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–3764 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36834; File No. SR–Amex–96–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Changes to Its Membership Admission Procedures

February 13, 1996.

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 January 30, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') file 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership admission procedures to make several clarifying and ''housekeeping'' changes, including changes with respect to: (i) the designation of nominees, and (ii) the requirements applicable to pension plans seeking to own memberships.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to make several clarifying and ''housekeeping'' changes to its membership procedures. Specifically, the requirements applicable to the designation of nominees are being updated.[1] Furthermore, the provisions relative to membership ownership by pension plans are being revised to more accurately and completely represent the procedures to be followed in this regard, and to clarify that: (i) the sponsors and trustees of such pension plans are responsible for evaluating the inherent risks of owning a membership and must determine the advisability of such without relying on advice from the Amex or any of its officers or employees, and (ii) the Amex will have on liability to either the participants in such pension plans or their beneficiaries in the event the purchase, operation or disposition of the membership results in loss to the pension plan and related trust. Moreover, the proposed rule change requires the plan sponsor and trustee to indemnify and hold the Exchange harmless from all claims, losses, expenses (including all attorney's fees) and taxes arising out of the purchase, operation and disposition of the membership.

In addition, outdated references in the Admissions of Members section to the Membership Admissions Department are being changed to refer to Membership Services, and corrections are being made with respect to certain typographical errors. [2]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act [3] in that it is designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those what 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, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–96–04 and should be submitted by March 13, 1996.

[1] The Amex is changing references to ''individual member or member organization'' in this section to ''owner of a regular or options principal membership.'' In addition, the Amex is amending this section to clarify an owner's responsibility for his or her nominee's obligations to the Exchange and other members or member organizations.

[2] The proposed rule change also requires that all applicants for Amex membership must pass a physical examination prescribed by the Exchange's physician. The current rule limits this requirement to those applicants who elect to become Participants in the Exchange's Gratuity Fund.

[3] 15 U.S.C. 78s(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3841 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36841; File Nos. SR–CBOE–95–43 and SR–PSE–95–24]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments by the Chicago Board Options Exchange, Inc. and the Pacific Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Options on Specified Equity Securities

February 14, 1996.

I. Introduction

On August 15, 1995, and October 5, 1995 the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') and the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') (collectively the ''Exchanges'') each, respectively, filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder, [2] to provide for the listing and trading of Flexible Exchange Options (''FLEX Options'') on specified equity securities (''FLEX Equity Options''). The CBOE submitted to the Commission Amendment No. 1 to its proposal on December 21, 1995.[3] The PSE submitted to the Commission Amendment Nos. 1 and 2 to is proposal on October 26, 1995, and January 24, 1996, respectively.[4]

Notice of CBOE and PSE proposals were published for comment and appeared in the Federal Register on September 12, 1995 [5] and November 13, 1995,[6] respectively. One comment letter was received on CBOE's proposed rule change.[7] This order approves the Exchanges' proposals, as amended.

II. Background

The purpose of the Exchanges' proposals is to provide a framework for the Exchanges to list and trade equity options that give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter (''OTC'') market in customized equity options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized equity options, the Exchanges propose to expand their FLEX Options rules [8] to permit the introduction of trading in FLEX Options on specified equity securities that satisfy the Exchanges' listing standards for equity options and that are currently the subject of regular (non-FLEX) standardized options trading on the Exchange that is seeking to list the FLEX Option.[9] the Exchanges' proposals will also FLEX Equity Option market participants to designate the following contract terms: (1) exercise price; (2) exercise style (i.e., American,[10] European,[11] or capped [12]); (3) expiration date; [13] and (4) option type (put, call, or spread).

Currently, both the CBOE [14] and PSE [15] have received Commission approval to list and trade FLEX Options on several broad-based market indexes of equity securities (''FLEX Index Options''). The Exchanges believe that because of the success of these products in meeting the needs of investors for greater flexibility is designating the terms of index options within the parameters of the Exchanges' FLEX Options rules, the Exchanges are now proposing to provide comparable flexibility to investors in equity options. The Exchanges believe that FLEX Equity Options will further broaden the base of institutional investors that use FLEX Options to manage their trading and investment risk.

For the most part, the Exchanges represent that their current rules governing FLEX Index Options will apply unchanged to FLEX Equity Options. Certain changes to the Exchanges' existing FLEX Options rules, however, are proposed to deal with the special characteristics of FLEX Equity Options. Specifically, the Exchanges propose to add several new definitions to accommodate the introduction of trading in FLEX Equity Options,[16] and to revise certain other rules governing FLEX Options and their trading, as described below.

As with FLEX Index Options, the Options Clearing Corporation (''OCC'')

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1 to its proposed rule change, CBOE proposes to: (1) set specific position limits, as described more fully, herein; (2) require FLEX Post Officials to call upon FLEX Qualified Market-Makers to quote in response to a Request for Quotes, whenever no FLEX Quotes are made in response to a specific Request for Quotes; and (3) limit FLEX Equity Option transactions to equities that are the subject of Non-FLEX Equity Options traded on the Exchange. *See* Letter from Michael Meyer, Attorney, CBOE, to Howard Kramer, Associate Director, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated December 21, 1995 (''CBOE Amendment No. 1'').

[4] In Amendment No. 1, the Exchange makes certain technical amendments to conform its filing to CBOE's proposed rule change. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated October 26, 1995 (''PSE Amendment No. 1'').

In Amendment No. 2, the Exchange makes further changes to conform its filing to subsequent amendments submitted to the Commission by the CBOE. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated January 24, 1996 (''PSE Amendment No. 2''). *See also* CBOE Amendment No. 1, *supra* note 3.

[5] *See* Securities Exchange Act Release No. 36185 (September 5, 1995), 60 FR 47415 (SR–CBOE–95–43).

[6] *See* Securities Exchange Act Release No. 36452 (November 2, 1995), 60 FR 57027 (SR–PSE–95–24). Amendment No. 1 to PSE's proposal was also published for comment in this release.

[7] *See* Letter from Salvatore R. DiDonna, Executive Vice President & Chief Operating Officer, Swiss American Securities Inc., to Jonathan G. Katz, Secretary, SEC, dated September 27, 1995 (''Swiss American Securities Letter'').

[8] *See* CBOE Rules 24A.1 through 24A.17 and PSE Rules 8.100 through 8.115.

[9] *See* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

[10] An American-style equity option is one that may be exercised at any time on or before the expiration date.

[11] A European-style equity option is one that may be exercised only during a limited period of time prior to expiration of the option.

[12] A capped-style equity option is one that is exercised automatically prior to expiration when the cap price is less than or equal to the closing price of the underlying security for calls or when the cap price is greater than or equal to the closing price of the underlying security for puts.

[13] The proposals, however, require that the expiration date of a FLEX Equity Option may not fall on a day that is within two business days of the expiration date of a Non-FLEX Equity Option.

[14] Specifically, the Commission has approved the listing by the CBOE of FLEX Options on the S&P 100 (''OEX''), S&P 500 (''SPX''), Nasdaq 100, and Russell 2000 Indexes. *See* Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX Options on the SPX and OEX indexes), 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX Options on the Nasdaq 100 index), and 32694 (July 29, 1993), 58 FR 41814 (July 5, 1993) (approval of FLEX Options on the Russell 2000 index).

[15] The Commission has approved the listing by the PSE of FLEX Options on the Wilshire Small Cap Index and the PSE Technology Index. *See* Securities Exchange Act Release No. 34364 (July 13, 1994), 59 FR 36813 (July 19, 1994).

[16] In addition to the term FLEX Equity Options, the proposal also defines the terms ''FLEX Index Options,'' ''Non-FLEX Options,'' ''Non-FLEX Equity Option,'' and, ''Applicable Floor Procedure Committee.'' *See* CBOE Rule 24A.1 and PSE Rule 8.1000(b).

will be the issuer of all FLEX Equity Options. The Commission has designated FLEX Index Options as standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act.[17]

III. Description of the Proposal

The Exchanges propose to revise their rules concerning the terms of FLEX Options to make specific reference to the terms of FLEX Equity Options.[18] Specifically, FLEX Equity Options will have (1) a maximum term of three years, (2) a minimum size of 250 contracts for an opening transaction in a new series, and (3) a minimum size of 100 contracts for an opening or closing transaction in a series in which there is already open interest (or any lesser amount in a closing transaction that represents the remaining underlying size). The minimum value size for FLEX Quotes[19] by a single Market-Maker in response to a Request for Quotes[20] in FLEX Equity Options is the lesser of 100 contracts or the remaining underlying size in a closing transactions.

The Exchanges also propose to allow exercise prices and premiums for FLEX Equity Options to be stated in dollar amounts or percentages, with premiums rounded to the nearest minimum tick and exercise prices rounded to the nearest one-eighth. The exercise of FLEX Equity Options will be by physical delivery, and the exercise-by-exception procedures of OCC will apply.[21]

The Exchanges represent that the trading procedures applicable to FLEX Equity Options will be subject to many of the same rules that apply to equity options traded on the Exchanges, and are similar to those that apply to FLEX Index Options, except that unless the Exchange's Market Performance Committee decides otherwise, there will not be FLEX Appointed Market-Makers[22] who are obligated to respond to Requests for Quotes in respect of FLEX Equity Options as there are with FLEX Index Options. Instead, the Exchanges propose to have five or more ''FLEX Qualified Market-Makers'',[23] who are permitted, but not obligated, to enter quotes in response to a Request for Quotes in a class of FLEX Equity Options in which the Market-Maker is qualified. In addition, a FLEX Post Official[24] may call upon a FLEX Qualified Market-Maker to make responsive quotes in the interests of a fair and orderly market. Moreover, a FLEX Post Official must call upon a FLEX Qualified Market-Maker to make a quote in response to a Request for Quotes (''RFQ'') if no quotes are made in response to the RFQ.[25] Accordingly, a FLEX Qualified Market-Maker is obligated to make responsive quotes whenever called upon to do so by a FLEX Post Official. Quotes of FLEX Qualified Market-Makers must satisfy the minimum size parameters discussed above for FLEX Equity Options and must be entered within the time periods provided in the Exchanges' FLEX Options Rules.[26]

The Exchange represent that the rules governing priority of bids and offers for FLEX Equity Options are also similar to those that apply to FLEX Index Options, except that in the case of FLEX Equity Options, no guaranteed minimum right of participation is provided to an Exchange member that initiates a Request for Quotes and indicates an intention to cross or act as principal on the trade.[27] The Exchanges' regular rules of price and time priority will apply in those situations.[28]

The Exchanges are proposing position limits and exercise limits for FLEX Equity Options that are longer than the limits applicable to Non-FLEX Equity Options for the same reasons that the position and exercise limits for FLEX Index Options are larger than those applicable to Non-FLEX Index Options. Position and exercise limits for FLEX Equity Options are set forth and compared to existing limits for Non-FLEX Equity Options on the same underlying security.[29]

Non-FLEX equity position limit	FLEX equity position limit
4,500 contracts	13,500 contracts.
7,500 contracts	22,500 contracts.
10,500 contracts	31,500 contracts.
20,000 contracts	60,000 contracts.
25,000 contracts	75,000 contracts.

The applicable position and exercise limit tiers for Non-FLEX Equity Options are based on the number of outstanding shares and trading volume of the underlying security.[30] This proposal does not alter the applicable tier criteria set forth in the Equity Option Position Limit Approval Orders.

As is currently the case for FLEX Index Options, it is proposed that there will be no aggregation of positions or exercises in FLEX Equity Options with positions or exercises in Non-FLEX Equity Options for purposes of the limits. The Exchanges believe that the larger position and exercise limits for FLEX Options and the nonaggregation of positions and exercises in FLEX Options and Non-FLEX Options reflect the institutional nature of the market for FLEX Options and the fact that the Exchanges must compete with over-the-counter markets throughout the world, many of which do not impose position or exercise limits.

The Exchanges also propose to provide that the expiration date of a FLEX Equity Option may not occur on a day that falls on, or within, two business days of the expiration date of a Non-FLEX Equity Option. This is intended to eliminate the possibility that the exercise of FLEX Equity Options at FLEX Equity Option. This is intended to eliminate the possibility that the exercise of FLEX Equity at expiration will cause any untoward

[17] *See* Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993) (''9b–1 Order''). As described in note 42 *infra*, and for the same reasons stated in the 9b–1 Order, FLEX Equity Options are deemed ''standardized options'' for purposes of the Rule 9b–1 options disclosure framework.

[18] CBOE Rule 24A.4 and PSE Rule 8.102.

[19] *See* CBOE Rule 24A.1(f) and PSE Rule 8.100(b)(7).

[20] *See* CBOE Rule 24A.1(k) and PSE Rule 8.100(b)(12).

[21] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. *See* OCC Rule 805.

[22] *See* CBOE Rule 24A.9 and PSE Rule 8.109.

[23] FLEX Qualified Market-Makers for FLEX Equity Options will be required to obtain a specific clearing member letter of guarantee, similar to FLEX Appointed Market-Makers assigned to FLEX Index Options. FLEX Qualified Market-makers, however, will not be required to maintain specific minimum financial requirements as are required for FLEX Appointed Market-Makers assigned to FLEX Index Options in CBOE Rules 24A.13 and 24A.14, and PSE Rules 8.113 and 8.114. *See, e.g.*, CBOE Rules 24A.9, 24A.13, 24A.14, and 24A.15; and PSE Rules 8.109, 8.113, 8.114, and 8.115.

[24] *See* CBOE Rule 24A.1(e) and PSE Rule 8.100(b)(7).

[25] *See* CBOE Rule 24A.9(c) and PSE Rule 8.109(c). *See also* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

[26] *See* CBOE Rule 24A.5 and PSE 8.103. Initially, the Request Response Time will be a minimum of 2 minutes and a maximum of 20 minutes. Under the proposed rules, the Equity Floor Procedures Committee has the authority to set the range for the Request Response Time. The Exchanges will provide at least 2 days notice to their respective members and member organizations of any changes to the Request Response Time range.

[27] *See CBOE Rule 24A.5(c) and PSE Rule 8.103(c).*

[28] *See CBOE Rule 6.45 and PSE Rule 6.75.*

[29] See CBOE Rule 24A.7(b) and PSE Rule 8.107(c). *See also* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supar* note 4.

[30] *See* Securities Exchange Act Release Nos. 36409 (October 23, 1995), 60 FR 55399 (October 31, 1995) (File Nos. SR–NYSE–95–31; SR–PSE–95–25; SR–Amex–95–42; and SR–Phlx–95–71); and 36371 (October 13, 1995, 60 FR 54269 (October 20, 1995) (File No. SR–CBOE–95–42) (collectively the ''Equity Option Position Limit Approval Orders'').

pressure on the market for underlying securities at the same time as Non-FLEX Equity Options underlying securities at the same time as Non-FLEX Equity Options expire. The Exchanges propose that this change will also apply to FLEX Index Options.[31]

lThe Exchanges believe that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[32] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest in that extending the existing FLEX Option program to encompass FLEX Options on specified equity securities will for the first time provide investors with a regulated, transparent exchange market in flexible options on individual equity securities.

IV. Comments

As noted above, the Commission received one comment letter, which was supportive of CBOE's FLEX Equity Option proposal. The commentator expressed the view that the FLEX product will provide its customers with the ability to negotiate equity option contract terms without compromising the safety and liquidity provided by the five options exchanges in the U.S.[33].

V. Discussion

The Commission finds that the proposals are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Sections 6(b)(5)[34] and 11A[35] of the Act. Specifically, the Commission finds that the Exchanges' proposals are designed to provide investors with a tailored or customized product for equity options currently traded on each of the respective Exchanges that may be more suitable to their investment needs. Moreover, consistent with Section 11A, the proposals should encourage fair competition among brokers and dealers and exchange markets, by allowing the Exchanges to compete with the growing OTC market in customized equity options.

The Commission believes the Exchanges' proposals reasonably address their desire to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs. Additionally, the Commission believes that the Exchanges' proposals will help promote the maintenance of a fair and orderly market, consistent with Sections 6(b)(5) and 11A of the Act, because the purpose of each proposal is to extend the benefits of a listed, exchange market to equity options that are more flexible than current listed equity options. The benefits of the Exchanges' options markets include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of OCC for all contracts traded on the Exchange.

As indicated above, the trading procedures applicable to FLEX Equity Options will be subject to many of the same rules that apply to equity options traded on the Exchanges, and are similar to those that apply to FLEX Index Options, except that unless the Exchange's Market Performance Committee decides otherwise, there will not be FLEX Appointed Market-Makers[36] who are obligated to respond to Requests for Quotes in respect of FLEX Equity Options as there are in respect of FLEX Index Options. Instead, the Exchanges propose to have five or more ''FLEX Qualified Market-Makers'' appointed to each class of FLEX Equity Option who are permitted, but not obligated, to enter quotes in response to a Request for Quotes in a class of FLEX Equity Options in which the Market-Makers is qualified.[37] To provide for adequate liquidity, the Exchanges provide that a FLEX Post Official may call upon a FLEX Qualified Market-Maker to make responsive quotes in the interests of a fair and orderly market.[38] Moreover, a FLEX Post Official must call upon a FLEX Qualified Market-Maker to make a quote in response to a Request the Quotes (''RFQ'') if no quotes are made in response to the RFQ.[39] Accordingly, a FLEX Qualified Market-Maker is obligated to make responsive quotes whenever called upon to do so by a FLEX Post Official. Additionally, quotes of FLEX Qualified Market-Makers must satisfy the minimum size parameters discussed above for FLEX Equity Options and must be entered within the time periods provided in the Exchanges' FLEX Options Rules.[40] The Commission believes the Exchanges' trading procedures for FLEX Equity Options are reasonably designed to provide some of the benefits of an Exchange auction along with features of a negotiated transaction between investors. The Commission recognizes that the Exchanges' proposed FLEX Equity Option trading programs will allow the trading of option contracts of substantial value, for which continuous quotation may be difficult to sustain. The Commission believes that the Exchanges have adequately addressed these concerns by establishing procedures for quotes upon request, which must be firm for a designated period of time and which will be disseminated through the Options Price Reporting Authority (''OPRA'').

The Commission believes that market impact concerns are reduced for FLEX Equity Options because expiration of these equity options will not correspond to the normal expiration of Non-FLEX Equity Options. In particular, FLEX Equity Options, similar to FLEX Index Options, will never expire on any ''Expiration Friday.'' More specifically, the expiration date of a FLEX Option may not occur on a day that is on, or within, two business days of the expiration date of a Non-FLEX Option. The Commission believes that this should reduce the possibility that the exercise of FLEX Options at expiration will cause any additional pressure on the market for underlying securities at the same time that Non-FLEX Options expire.

Nevertheless, because the position limits for FLEX Equity Options are much higher than those currently existing for outstanding exchange-traded equity options and open interest in one or more FLEX Equity Option series could grow to significant levels, it is possible that FLEX Equity Options might have an impact on the securities

[31] Both Exchanges currently provide that the expiration date of a FLEX Index Option may not occur during this time period. THe proposed rule change merely clarifies this requirement.

[32] 15 U.S.C. 78f(b)(5).

[33] *See* Swiss American Securities Letter, *supra* note 7.

[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78k–1.

[36] *See* CBOE Rule 24A.9 and PSE Rule 8.109.

[37] The Commission notes that FLEX Qualified Market-Makers for FLEX Equity Options will be required to obtain a specific clearing member letter of guarantee, similar to FLEX Appointed Market-Makers assigned to FLEX Index Options. FLEX Qualified Market-Makers, however, will not be required to maintain specific minimum financial requirements as are required for FLEX Appointed Market-Makers assigned to FLEX Index Options in CBOE Rules 24A.13 and 24A.14, and PSE Rules 8.113 and 8.114. *See, e.g.*, CBOE Rules 24A.9, 24A.13, 24A.14, and 24A.15; and PSE Rules 8.109, 8.113, 8.114, and 8.115.

[38] *See* CBOE Rule 24A.9(b) and PSE Rule 8.109(b).

[39] *See* CBOE Rule 24A.9(c) and PSE Rule 8.109(c). *See also* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

[40] *See* CBOE Rule 24A.5 and PSE 8.103.

markets for the securities underlying FLEX Equity Options. The Commission expects the Exchanges to monitor the actual effect of FLEX Equity Options once trading commences and take prompt action (including timely communication with the self-regulatory organizations responsible for oversight of trading in the underlying securities) should any unusual market effects develop.

The Exchanges represent that FLEX Equity Options will allow them to compete with OTC markets and help meet the demand for customized equity options products by institutional investors. The minimum value sizes for opening transactions in FLEX Equity Options are designed to appeal to institutional investors, and it is unlikely that most retail investors would be able to engage in options transactions at that size. Nevertheless, the FLEX Equity Option minimum size is much smaller than that for FLEX Index Options. Accordingly, the Commission requests that the Exchanges monitor their respective comparative levels of institutional and retail investor open interest in FLEX Equity Options for one year from the commencement of their respective FLEX Equity Option trading programs, and each provide a report to the Commission's Division of Market Regulation with their findings.

The Commission notes that effective surveillance guidelines are essential to ensure that the Exchanges have the capacity to adequately monitor trading in FLEX Equity Options for potential trading abuses. The Commission's staff has reviewed CBOE's surveillance program and believes it provides a reasonable framework in which to monitor the trading of FLEX Equity Options on its trading floor and detect as well as deter manipulation activity and other trading abuses. The PSE is in the process of preparing its surveillance plan to submit to the Commission.

This approval order, in regard to the PSE, is contingent upon it submitting adequate surveillance plans that have been reviewed and approved by Commission staff.

The Commission notes that trading of FLEX Equity Options is contingent upon receipt by the Commission of a letter from OPRA indicating that it has adequate systems processing capacity to accommodate the additional options listed in accordance with the FLEX Equity Options program. OPRA has reviewed CBOE's request, and has concluded that the additional traffic generated by FLEX Equity Options traded on the CBOE is within OPRA's capacity.[41] The PSE is preparing to submit its request to OPRA to determine whether the additional traffic generated by FLEX Equity Options traded on the PSE is within OPRA's capacity. This approval order, in regard to the PSE, is contingent upon it submitting its OPRA Capacity Letter to the Commission's Division of Market Regulation.

The Commission finds good cause for approving CBOE Amendment No. 1 and PSE Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, these amendments (1) set specific position limits for each tier of Non-FLEX Equity Option position limits; (2) require FLEX Post Officials to call upon FLEX Qualified Market-Makers to quote in response to a Request for Quotes, whenever no FLEX Quotes are made in response to a specific Request for Quotes; and (3) limit FLEX Equity Option transactions to equities that are the subject to Non-FLEX Equity Options traded on the Exchange. The Commission does not believe that the amendments raise any new or unique regulatory issues. The amendments also strengthen and clarify the proposal by addressing market impact and liquidity concerns as well as the scope of the proposal. Accordingly, the Commission believes, consistent with Section 6(b)(5) of the Act, that good cause exists, to approve CBOE Amendment No. 1 and PSE Amendment No. 2 to their respective proposals on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning CBOE Amendment No. 1, and PSE Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal offices of the Exchanges. All submissions should refer to SR–CBOE–95–43; and SR–PSE–95–24 and should be submitted by March 13, 1996.

[41] *See* Letter from Joe Corrigan, Executive Director, OPRA, to Andy Lowenthal, CBOE, dated January 26, 1996 (''OPRA Capacity Letter'').

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and Sections 6 and 11A of the Act in particular. In addition, the Commission finds pursuant to Rule 9b–1 under the Act, that FLEX Options, including FLEX Equity Options, are standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act.[42]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[43] that the proposals (File Nos. SR–CBOE–95–43 and SR–PSE–95–24), as amended, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[44]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3838 Filed 2–20–96; 8:45 am]

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[42] 17 CFR 240.9b–1(a)(4). As part of the original approval process of the FLEX Options framework, the Commission delegated to the Director of the Division of Market Regulation the authority to authorize the issuance of orders designating securities as ''standardized options'' pursuant to Rule 9b–1(a)(4) under the Act. *See* Securities Exchange Act Release No. 31911 (February 23, 1993), 58 FR 11792 (March 1, 1993).

[43] 15 U.S.C. 78s(b)(2).

[44] 17 CFR 200.30–3(a)(12).

[Release No. 34–36842; File No. SR–DTC–95–25]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change to Allow Participants to Make Intraday Withdrawals of Principal and Income Payments

February 14, 1996.

On November 15, 1995, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–95–25) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] to allow participants to make intraday withdrawals of principal and income payments (''P&I payments''). Notice of the proposal was published in the Federal Register on January 17, 1996.[2] The Commission

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 36686 (January 5, 1995), 61 FR 1199.

received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

In a memorandum dated July 29, 1994, which was issued jointly with the National Securities Clearing Corporation (''NSCC'') and which described the planned conversion of DTC's money settlement system to an entirely same-day funds settlement (''SDFS'') system, DTC announced plans to offer a service for intraday withdrawal of P&I payments. The service was developed in response to participants' requests to have the funds resulting from P&I payments available for participants' use prior to the time of DTC's money settlement at the end of the day. DTC plans to begin the new service in the first quarter of 1996.

In the current next-day funds settlement (''NDFS'') environment, P&I payment allocations are credited to participants' accounts on a regular basis at a specific time during the day. Under the proposed rule change, P&I payment allocations for SDFS issues will be credited to participants' money settlement accounts throughout each processing day as funds are received by DTC from issuers and their paying agents. Only P&I payments that have been received by DTC and credited to a participant's account will be available for withdrawal. Withdrawal requests for P&I payments will be subject to the risk management controls of the SDFS system (*i.e.*, collateral monitor and net debit caps). Any withdrawal request that is blocked due to insufficient collateral or a net debit cap will recycle until enough collateral or settlement credits have been generated to satisfy the collateral or net debit cap deficiency or until the end of the recycle period on that day. Any early withdrawal requests still recycling at the end of the recycle period will be dropped from the system, and the P&I payment allocation will be included in the end-of-day settlement.

II. Discussion

Section 17A(b)(3)(F) of the Act [3] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that DTC's proposal is consistent with DTC's obligations under Section 17A(b)(3)(F) because the procedures should facilitate the prompt and accurate settlement of P&I payments by allowing participants to withdraw P&I credits prior to end-of-day settlement. Intraday withdrawal of P&I credits also should help provide liquidity in the clearance and settlement system by providing participants with a source of intraday liquidity. The Commission also believes the procedures are consistent with DTC's obligations to assure the safeguarding of securities and funds in its custody or control because DTC only will permit participants to withdraw early those P&I credits that DTC has actually received from an issuer's paying agent or that DTC has an expectation based on a paying agent's historical compliance with DTC's P&I payment policy that such payments will be received.[4] Furthermore, DTC will subject intraday P&I payment withdrawal requests to its risk management controls (*i.e.*, collateral monitor and net debit caps). This should ensure that withdrawal requests that will cause a participant to have insufficient collateral or exceed their net debit cap will recycle until enough collateral or settlement credits are generated in the participant's account.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, and in particular with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–25) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3840 Filed 2–20–96; 8:45 am]

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[3] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[4] As part of its preparation for the SDFS conversion, DTC has secured intraday and overnight lines of credit that will be available to fund early P&I credit withdrawals for which DTC has not actually received payments from the issuer's paying agent but for which DTC expects such payments based on the paying agent's historical compliance with DTC's P&I payment policy. For a further description of DTC's policy regarding P&I payments to participants, refer to Securities Exchange Act Release No. 36837 (February 13, 1996), [File No. SR–DTC–96–02] (notice of filing and immediate effectiveness of a proposed rule change regarding P&I payments to participants).

[5] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36844; File No. SR–DTC–96–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Revision of Certain Fees

February 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 25, 1996, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise the fees charged for deliveries, money market instruments (''MMI'') transactions, and long positions because of the conversion to same-day funds settlement.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

DTC plans to convert its existing next-day funds settlement and same-day funds settlement (''SDFS'') systems into an entirely SDFS system on February 22, 1996. Most of the fees currently charged for services in each of the two settlement systems are identical and will not at this time be affected by the conversion. The purpose of the proposed rule change is to revise the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] A copy of the revised fee schedule is attached to this notice of DTC's proposed rule change as Appendix A.

[3] The Commission has modified the text of the summaries prepared by DTC.

fees charged for deliveries, MMI transactions, and long positions which will be affected by the conversion. These fees need to be changed in order to establish a single fee for each of these services and to take into account the substantially greater volumes of book-entry transactions, numbers of issues to be included in the SDFS system, and DTC's increased costs to process a book-entry delivery in the SDFS systems.

The subject fee schedule revisions are revenue neutral to DTC (*i.e.,* the new fee should yield the same amount of revenue to DTC as the old fees would have yielded when applied to anticipated 1996 volumes). The new fees represent a ''blending'' of the existing fees in each settlement system reflecting last year's total costs for these services. These historical costs may or may not represent the actual processing costs in the new settlement system. DTC will need at least several months after the conversion to evaluate the related unit service costs for these three services.

DTC believes the proposed rule change is consistent with Section 17A of the Act[4] and the rules and regulations thereunder because it will provide for the equitable allocation of dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The conversion was described in three memoranda issued jointly by the National Securities Clearing Corporation and DTC[5] and was discussed in a DTC proposed rule change approved by the Commission on May 16, 1995.[6] DTC informed participants and other users of its services of the proposed fee revisions by an Important Notice.[7] No written comments have been received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Sections 19(b)(3)(A)(ii)[8] of the Act and pursuant to Rules 19b–4(e)(2)[9] promulgated thereunder because the proposal establishes a due, fee, or other charge. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–96–04 and should be submitted by March 13, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

APPENDIX A—FEE CHANGES ARISING FROM THE CONVERSION TO AN ALL-SDFS SYSTEM

Service	Present fee	Revised fee
A. Registered Securities		
I. NDFS Deliveries:		
Deliver orders via CNS	$.07 for each item delivered or received	$.08 for each item delivered or received.
Deliver orders via ID System	.17 for each item delivered or received	.20 for each item delivered or received.
Deliver orders via PTS, MDH or CCF		
For each deliver item presented	.15 to the deliverer	.18 to the deliver.
Prior PM	.40 to the deliverer	.47 to the deliverer.
AM opening to cut-off	.25 for each item received (regardless of time)	.29 for each item received (regardless of time).
II. SDFS Deliveries/Money Market Instruments Activity:		
SDFS Deliveries:		
Deliver orders via PTS, MDH or CCF		
For each deliver item presented	.93 to the deliverer	.18 to the deliverer.
Prior PM	1.18 to the deliverer	.47 to the deliverer.
AM opening to cut-off	1.03 for each item received (regardless of time).	.29 for each item received (regardless of time).
Deliver orders via ID system	.93 for each item delivered or received	.20 for each item delivered or received.
Money Market Instruments Activity		
Deliver orders	1.07 to the deliverer	.59 to the deliverer.
	.92 to the deliverer	.41 to the receiver.
Maturity or reorganization presentments	.87 for each item delivered or received	.59 for each item delivered or received.

[4] 15 U.S.C. 78q–1 (1988).

[5] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 1, 1992; July 26, 1993; and July 29, 1994).

[6] For additional information regarding DTC's SDFS system, refer to Securities Exchange Act Release No. 35720 (May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval of a proposed rule change modifying the SDFS system).

[7] DTC Important Notice (January 17, 1996).

[8] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[9] 17 CFR 240.19b–4(e)(2) (1995).

[10] 17 CFR 200.30–3(a)(12) (1995).

APPENDIX A—FEE CHANGES ARISING FROM THE CONVERSION TO AN ALL-SDFS SYSTEM—Continued

Service	Present fee	Revised fee
Issuance instruction (both dealer-placed and directly-placed).	1.66 to the issuer's agent	.59 to the issuer's agent.
B. Bearer Securities		
I. Deliver Orders:		
ID	.17 for each item delivered or received	.20 for each item delivered or received.
PTS, MDH or CCF	.33 for each item delivered	.39 for each item delivered.
	.25 for each item received	.29 for each item received.
II. Long Position:		
For each active issue per month (held by more than 2 Participants).	.58 per issue	.59 per issue.
For each less-active issue per month (held by 1 or 2 Participants).	1.33 per issue	1.34 per issue.
Monthly charge on face value		
$0–$.5 billion	.000006790	No Change.
Excess over .5 billion up to $1 billion	.0000016988	No Change.
Excess over $1 billion up to $8 billion	.00000084025	No Change.
Excess over $8 billion	.00000042012	No Change.
A monthly surcharge on all positions in Book Bond issues.	1.05 per issue	No Change.
A monthly surcharge on all positions requiring coupon collection from paying agents located outside Metropolitan New York area.	.25 per issue	No Change.
A monthly surcharge on all positions in multiple purpose issues.	.50 per issue	No Change.
A monthly surcharge on all positions in issues denominated in units of $1,000.	.50 per issue	No Change.
III. Long Position:		
For each active issue monthly (for registered corporate issues when a daily average of more than 15 Participants have positions; and for registered municipal issues when a daily average of more than 2 Participants have positions).	.47 per issue	.50 per issue.
For each less-active registered corporate issue monthly (when a daily average of 15 or fewer Participants have position).	.72 per issue	.75 per issue.
For each less-active registered municipal issue monthly (when a daily average of 1 or 2 Participants have position).	1.22 per issue	1.25 per issue.
For each 100 shares or $4,000 bonds (monthly) based on the average daily number of shares or bonds:		
0–25 million shares	.0052	No Change.
Excess over 25 million up to 200 million shares.	.0013	No Change.
Excess over 200 million up to 300 million shares.	.000652	No Change.
Excess over 300 million shares	.00005	No Change.
For each book-entry-only issue (monthly)	.31 per issue, no per bond/per share charge	No Change.
For each Medium-Term Note (MTN) and Money Market Instrument (MMI) issue (monthly).	.56 per issue, no per bond/per share charge	No Change.

[FR Doc. 96–3839 Filed 2–20–96; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–36843; File No. SR–DTC–96–03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modifications to the Same-Day Funds Settlement System

February 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 23, 1996, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1) (1988).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to modify DTC's procedures relating to receiver authorized delivery (''RAD'') processing [2] and to provide participants with the ability to block deliveries of government securities to their DTC accounts. The proposed rule change also amends DTC's processing schedules. The modifications are part of the planned conversion of DTC's money settlement system to an entirely same-day funds settlement (''SDFS'') system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC plans to combine its next-day funds settlement (''NDFS'') system and its SDFS system into a single SDFS system which will be based on the design of the current SDFS system with some modifications. The conversion was described in three memoranda issued jointly by the National Securities Clearing Corporation and DTC [4] and was discussed in a DTC proposed rule change approved by the Commission on May 16, 1995.[5] In order to assure an efficient conversion, some of the modifications to the current SDFS system are being implemented at various times prior to the conversion date, which is scheduled for February 22, 1996. Most of the modifications to the processing schedule for the SDFS system that are needed for the conversion were implemented on January 25, 1996. A few of the modifications, such as the processing periods applicable to continuous net settlement system activity, will not be implemented until the conversion date because the related activities are part of the current NDFS system, which will remain unchanged until the conversion.

Modifications to DTC's RAD procedures also became effective on January 25, 1996, so that deliveries of new issues submitted during DTC's day cycle will not be subject to the receiving participants' RAD approvals. Because RAD processing delays submission of a delivery instruction to DTC's main processing system, this modification will give delivering participants greater control over the order in which their deliveries are processed at DTC. The modification will help to ensure, for example, that a participant's syndicate deliveries are processed before its customer deliveries if the participant entered the deliveries in that order.

On the conversion date, securities which are eligible for the Federal Reserve's Book-Entry (''FBE'') system (*i.e.,* government securities) and which also are currently eligible for DTC's NDFS system will become eligible for DTC's new SDFS system. DTC will offer participants the option to block their DTC accounts for valued or free deliveries and receipts of FBE eligible securities at DTC. This option will enable a participant to prevent a delivery at DTC that the participant is expecting to receive through the FBE system.[6] Electing to block deliveries and receives of FBE securities will not impact participants' current ability to deposit and withdraw such securities through DTC's link with the Federal Reserve Bank of New York. Pledges and other activities will also not be affected by this election.

DTC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the proposed rule change will facilitate the conversion to an entirely SDFS system and therefore will promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Notice of the proposed rule change has been provided to DTC participants in four DTC Important Notices [7] as well as by the joint memoranda referred to above.[8] No written comments have been received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) [9] of the Act and pursuant to Rule 19b–4(e)(6) [10] promulgated thereunder because the proposed rule is effecting a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for thirty days from the date of its filing on January 23, 1996, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and (4) was provided to the Commission for its review at least five days prior to the filing date. The Commission finds good cause for accelerating the operative date of the proposed rule change because the modifications implemented by the rule change will facilitate the planned conversion of DTC's entire money settlement system to an SDFS system. The Commission believes that participants should have the opportunity to become familiar with these modifications to DTC's SDFS system prior to the complete conversion on February 22, 1996. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise

[2] RAD allows a participant to review and either approve or cancel incoming deliveries before they are processed in DTC's system. For a further discussion of DTC's RAD procedures, refer to Securities Exchange Act Release No. 25886 (July 6, 1988), [File No. SR–DTC–88–07] (notice of filing and immediate effectiveness of a proposed rule change implementing DTC's RAD procedures).

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 1, 1992; July 26, 1993; and July 29, 1994).

[5] For additional information regarding DTC's SDFS system, refer to Securities Exchange Act Release No. 35720 (May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval of a proposed rule change modifying the SDFS system).

[6] Some DTC participants have expressed to DTC a desire not to have deliveries of FBE securities made to their DTC accounts so participants can more efficiently manage their receipts of FBE securities.

[7] DTC Important Notices (December 22, 1995; December 26, 1995; January 2, 1996; and January 10, 1996).

[8] *Supar* note 3.

[9] 15 U.S.C. § 78s(b)(3)(A)(iii) (1988).

[10] 17 CFR 240.19b–4(e)(6) (1994).

in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–96–03 and should be submitted by March 13, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3837 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36840; File No. SR–NASD–96–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Mutual Fund Quotation Service

February 13, 1996.

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 February 5, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises the fee structure for the Mutual Fund Quotation Service (''MFQS'' or ''Service'') and updates the name of the Service in the NASD Rules. Specifically, the proposed rule change amends Part VIII and Part XIV of Schedule D to the NASD By-Laws.[1] Below is the text of the proposed rule change. (Additions are italicized; deletions are bracketed.)

Part VIII

Schedule of NASD Charges for Services and Equipment

* * * * *

I. Mutual Fund Quotation *Service* [Program]

Funds included in the Mutual Fund Quotation *Service* [Program] shall be assessed an annual fee of *$275* [$150] per fund authorized for the News Media Lists and *$200* [$100] per fund authorized for the Supplemental List. Funds authorized during the course of an annual billing period shall receive a proration of these fees, but no credit or refund shall accrue to funds terminated during an annual billing period. *In addition, there shall be a one-time application processing fee of $250 for each new fund authorized.*

* * * * *

Part XIV

Mutual Fund Quotation *Service* [Program]

A. Description

The Mutual Fund Quotation *Service* [Program] collect and disseminates through The Nasdaq Stock Market prices for both mutual funds and money market funds.

B. Eligibility Requirements

To be eligible for participation in the Mutual Fund Quotation *Service* [Program], a fund shall:

1. through 4.—No change.

* * * * *

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments if received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD 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

The purpose of the proposed rule change is to revise the free structure for the Mutual Fund Quotation Service to account for significant enhancements and to reflect more accurately the value of the Service in today's market. The Service facilities the public dissemination of daily price information for mutual funds and money market funds through broadcast media and newspapers. After the market close each day, mutual fund companies or their agents calculate the net asset value (''NAV''), and in some cases the dividend, capital gain, and other pertinent information for each fund. This information is submitted to the NASD by computer, which in turn disseminates it out to the media in a static batch transmission at approximately 5:40 p.m. Depending on the size and number of shareholders, funds may qualify for inclusion in either the News Media List or the Supplemental List.

Under the proposed rule change, the fee for including a fund in the News Media List will increase from $150 to $275 per year, and the fee for the Supplemental List will increase from $100 to $200 per year. In addition, new funds will now be assessed a one-time application processing fee of $250 per fund.

The NASD notes that the current fees have remained unchanged since inception of the Service more than ten years ago, while the number of funds and shareholder accounts have increased more than three-fold during the same period. The increased reliance on daily price information and the importance of distributing this information in a timely fashion has necessitated several enhancements to the Service, including the launch of a rolling dissemination system. Rolling dissemination of prices will allow mutual funds and their agents to enter real-time updates throughout the day, and enable the media to receive fund NAVs as soon as they are available. This gives the media more time to prepare their daily fund tables for inclusion in

[11] 17 CFR 200.30–3(a)(12) (1995).

[1] Pursuant to a new rule numbering system for the NASD Manual anticipated to be effective no later than May 1, 1996, the rules that are the subject of this proposed rule change will become Rule 7090 (regarding fee structure), and Rule 6800 (regarding description). *See* Exchange Act Release No. 36698 (January 11, 1996), 61 FR 1419 (January 19, 1996) (order approving new rule numbering system).

newspapers, and reduces the problems associated with rushed end-of-day transmissions of price information. In addition, rolling dissemination reduces the risk of the media not receiving any price information in the event there is a transmission problem between 4 p.m. and 5:40 p.m. In such a case, the media already will have received some fund information for publication, instead of relying on a single batch transmission at 5:40 p.m., as is the case today. The one-time application fee for new funds is intended to defray the costs incurred in processing applications.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. The fee changes are necessary to provide significant benefits to mutual fund complexes, their agents, and the media.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. NASD–96–05 and should be submitted by March 13, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Director.

[FR Doc. 96–3842 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2835]

CALIFORNIA

Declaration of Disaster Loan Area

Humboldt County and the contiguous counties of Del Norte, Mendocino, Siskiyou, and Trinity in the State of California constitute a disaster area as a result of damages caused by high winds, heavy rains, and flooding which occurred from December 11, 1995 to January 1, 1996. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on April 8, 1996 and for economic injury until the close of business on November 7, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853–4795.

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit. Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 283506 and for economic injury the number is 876900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 7, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3793 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2825]

Maryland; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 23, 1996, and amendments thereto on February 2 and 5, I find that the Counties of Allegany, Cecil, Carroll, Frederick, Garrett, and Washington in the State of Maryland constitute a disaster area due to damages caused by flooding which occurred January 19 through January 31, 1996. Applications for loans for physical damages may be filed until the close of business on March 22, 1996, and for loans for economic injury until the close of business on October 23, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Baltimore, Harford, Howard, Kent, and Montgomery Counties in Maryland; and New Castle County in Delaware.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000

	Percent
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 282506 and for economic injury the numbers are 872900 for Maryland and 873200 for Delaware.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3800 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Economic Injury Disaster Loan Area #8765]

Commonwealth of Massachusetts, (And Contiguous Counties in New Hampshire); Declaration of Disaster Loan Area

Essex County and the contiguous counties of Middlesex and Suffolk in the Commonwealth of Massachusetts and Hillsborough and Rockingham in the State of New Hampshire constitute an economic injury disaster area as a result of damages caused by a fire which occurred during the week of December 11, 1995 in the City of Methuen, Massachusetts. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on November 6, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303.

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to this disaster for the State of New Hampshire is 8766.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: February 6, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3794 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2832]

New Jersey; Declaration of Disaster Loan Area

Warren County and the contiguous counties of Hunterdon, Morris, and Sussex in the State of New Jersey constitute a disaster area due to damages caused by flooding which resulted from a severe storm that occurred on January 19, 1996. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on April 5, 1996 and for economic injury until the close of business on November 5, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, New York 14303.

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 283206 and for economic injury the number is 876400.

Any counties contiguous to the above-named primary county and not listed herein have been previously declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 5, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3796 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2826]

New York; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 24, 1996, and amendments thereto on January 26 and 29, and February 1 and 2, I find that the Counties of Albany, Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Greene, Montgomery, Orange, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Steuben, Sullivan, Thompkins, Tioga, and Ulster in the State of New York constitute a disaster area due to damages caused by severe storms and flooding which occurred January 19 through January 30, 1996. Applications for loans for physical damages may be filed until the close of business on March 24 1996, and for loans for economic injury until the close of business on October 24, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Fl., Niagara Falls, NY 14303

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Chautauqua, Erie, Franklin, Fulton, Hamilton, Herkimer, Livingston, Madison, Oneida, Onondaga, Ontario, Oswego, Putnam, Rockland, Schuyler, Seneca, Warren, Washington, Wayne, Westchester, Wyoming, and Yates in New York; Addison, Bennington, Chittenden, and Grand Isle Counties in Vermont; Berkshire County in Massachusetts; and Fairfield and Litchfield Counties in Connecticut.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000%

The number assigned to this disaster for physical damage is 282606 and for

economic injury the numbers are 873700 for New York; 877300 for Vermont; 877400 for Massachusetts; and 877500 for Connecticut.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3797 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2831]

Ohio; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 27, 1996, and amendments thereto on January 30 and February 2 and 8, I find that the Counties of Adams, Belmont, Brown, Clermont, Columbiana, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington in the State of Ohio constitute a disaster area due to damages caused by severe storms and flooding which occurred January 20 through January 31, 1996. Applications for loans for physical damages may be filed until the close of business on March 27, 1996, and for loans for economic injury until the close of business on October 28, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Athens, Butler, Carroll, Clinton, Gallia, Guernsey, Harrison, Highland, Jackson, Mahoning, Morgan, Noble, Pike, Stark, Vinton, and Warren Counties in Ohio; Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties in Kentucky; Dearborn and Franklin Counties in Indiana; and Wayne County, West Virginia.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000%
Homeowners Without Credit Available Elsewhere	4.000%
Businesses With Credit Available Elsewhere	8.000%
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000%
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125%
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000%

The number assigned to this disaster for physical damage is 283106 and for economic injury the numbers are 874400 for Ohio; 877000 for Kentucky; 877100 for Indiana; and 877200 for West Virginia.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 14, 1996

Bernard Kulik

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3867 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2833]

Pennsylvania, (And Contiguous Counties in New Jersey); Declaration of Disaster Loan Area

Bucks County and the contiguous counties of Lehigh, Montgomery, Northampton, and Philadelphia in the State of Pennsylvania, and the contiguous counties of Burlington, Hunterdon, Mercer, and Warren in the State of New Jersey constitute a disaster area as a result of damages caused by a fire in the Township of Bristol which occurred on January 29 and 30, 1996. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on April 5, 1996 and for economic injury until the close of business on November 5, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, New York 14303

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damage are 283305 for Pennsylvania and 283405 for New Jersey and for economic injury the numbers are 876700 for Pennsylvania and 876800 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 5, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3795 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2824]

Pennsylvania; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 21, 1996, and amendments thereto on January 22, 23, and 24, and February 2, I find that the entire State of Pennsylvania constitutes a disaster area due to damages caused by flooding which occurred January 19 through February 1, 1996. Applications for loans for physical damages may be filed until the close of business on March 21, 1996, and for loans for economic injury until the close of business on October 21, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Astubula and Trumbull Counties in Ohio; and Burlington, Camden, Gloucester, Hunterdon, Mercer, Sussex, and Warren Counties in New Jersey.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000

	Percent
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 282406 and for economic injury the numbers are 872500 for Pennsylvania; 873400 for Ohio; and 876300 for New Jersey.

Any counties contiguous to a Pennsylvania county and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3798 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2827]

West Virginia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 25, 1996, and amendments thereto on January 30 and February 2, I find that the Counties of Berkeley, Brooke, Grant, Greenbriar, Hampshire, Hancock, Hardy, Jefferson, Marshall, Manson, Mercer, Mineral, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Summers, Tucker, Tyler, Webster, Wetzel, and Wood in the State of West Virginia constitute a disaster area due to damages caused by flooding which occurred January 19 through February 2, 1996. Applications for loans for physical damages may be filed until the close of business on March 25, 1996, and for loans for economic injury until the close of business on October 25, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Fl., Niagara Falls, NY 14303 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Barbour, Braxton, Cabell, Clay, Doddridge, Fayette, Harrison, Jackson, Marion, McDowell, Monongalia, Putnam, Raleigh, Ritchie, Taylor, Upshur, Wirt, and Wyoming in West Virginia; and Bland, Giles, and Tazewell Counties in Virginia.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.00
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 282706 and for economic injury the numbers are 873800 for West Virginia and 873900 for Virginia.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3799 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2334]

Shipping Coordinating Committee International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10: a.m., on Thursday, March 28, 1996, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. The purpose of this meeting is to seek public comment to assist the U.S. delegation in developing its final negotiating positions for an upcoming diplomatic conference that will consider the draft texts of both an International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) and a Protocol to amend the International Convention on Limitation of Liability for Maritime Claims (76 LLMC). The diplomatic conference will be held in London, at the Headquarters of the International Maritime Organization (IMO), from April 15 until May 3, 1996.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first item addressed will be the draft HNS Convention. Comments will be sought at this time regarding the substance of the draft HNS Convention.

At approximately 11:00 a.m., there will be a discussion on the major revisions to the 76 LLMC that would be brought about by the draft Protocol. Comments will also be sought at this time regarding the substance of the draft Protocol.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information, for copies of the conference drafts of these instruments, or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Steven D. Poulin, U.S. Coast Guard (G–LMI), 2100 Second Street SW., Washington, D.C. 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: February 9, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–3871 Filed 2–20–96; 8:45 am]

BILLING CODE 4710–70–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATED: February 12, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Patricia R. Lane, (202) 267–3491; Federal Aviation Administration; Office of Chief Counsel, AGC–230; 800 Independence Avenue SW.; Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on February 12, 1996:

OMB No: 2120–New.

Administration: Federal Aviation Administration (FAA).

Title: Special Federal Aviation Regulation (SFAR) 74–Airspace and Flight Operations Requirements For the 1996 Summer Olympic Games, Atlanta, GA.

Need for Information: Under 49 U.S.C. 40103, the FAA is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace to ensure the safety of aircraft and the efficient utilization of such airspace.

Proposed Use of Information: The FAA needs this information to ensure continued safe and efficient use of airspace and air traffic control capacity. This information will also prevent any unsafe congestion of sightseeing and other aircraft over the various Olympic venues.

Frequency: 21 days (1-time).

Burden Estimate: 192.

Respondents: Individuals or households and business or other-for-profit.

Number of Respondents: 3832.

Form(s): None.

Average Burden Hours Per Response: 2.0 hours.

Issued in Washington, D.C. on February 12, 1996

Phillip Leach,

Computer Specialist, Information Resource Management (IRM) Strategies Division.

[FR Doc. 96–3806 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements filed during the Week Ending 2/9/96

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1052.

Date filed: February 5, 1996.

Parties: Members of the International Air Transport Association.

Subject: TC31 Telex Mail Vote 775, General Increase Resolution 003a, Intended effective date: March 1, 1996.

Docket Number: OST–96–1053.

Date filed: February 5, 1996.

Parties: Members of the International Air Transport Association.

Subject: TC12 Telex Mail Vote 779, US-Yugoslavia fares Reso 002c, Intended effective date: April 1, 1996.

Docket Number: OST–96–1054.

Date filed: February 5, 1996.

Parties: Members of the International Air Transport Association.

Subject: TC12 Telex Mail Vote 778, Germany-Canada/Mexico fares, r–1–076jj r–2– 074w, Intended effective date: March 1, 1996.

Docket Number: OST–96–1060.

Date filed: February 7, 1996.

Parties: Members of the International Air Transport Association.

Subject: TC31 Reso/P 1099 dated January 26, 1996, TC31 South Pacific resos r1 – 11, Intended effective date: April 1, 1996.

Docket Number: OST–96–1064.

Date filed: February 8, 1996.

Parties: Members of the International Air Transport Association.

Subject: TC3 Telex Mail Vote 773, Seoul-Macau fares r1–5, Intended effective date: February 14, 1996.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–3807 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending February 9, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1070.

Date filed: February 9, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 1996.

Description: Application of Korean Air Lines Co., Ltd., pursuant to 49 U.S.C. Section 41301, and Subpart Q of the Regulations, applies for an amendment to its foreign air carrier permit to engage in the scheduled foreign air transportation of persons, property and mail between a point or points in the Republic of Korea and Saipan.

Docket Number: OST–96–1071

Date filed: February 9, 1996

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 1996

Description: Application of Gulf and Caribbean Cargo, Inc., pursuant to Section 49 U.S.C. 41102, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Gulf & Caribbean to provide scheduled foreign air transportation of passengers, property and mail. Initially, Gulf & Caribbean intends to provide service between Indianapolis, Indiana and Fort Lauderdale, Florida on the one hand, and Port au Prince, Haiti on the other hand.

Paulette V. Twine,

Chief Documentary Services Division.

[FR Doc. 96–3808 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Office of the Secretary

[Docket OST–95–703]

Application of Alphajet International, Inc., For Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 96–2–18).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding AlphaJet International, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than February 28, 1996.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–95–703 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366–2340.

Dated: February 13, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–3809 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Training and Qualification Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of New Task Assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Toula, Assistant Executive Director for Training and Qualification Issues, Flight Standards Service (AFS–210), 800 Independence Avenue, SW, Washington, DC 20591, telephone: (202) 267–3729; fax: (202) 267–5229.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is training and qualification issues. These issues involve training and qualification of air carrier crewmembers and other air transport employees.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following task:

Recommend disposition of comments made to the Advance Notice of Proposed Rulemaking No. 94–74, which proposes to amend the applicable portions of parts 123, 125, and 135 of the Federal Aviation Regulations to establish requirements to ensure that flight attendants understand sufficient English language to communicate, coordinate, and perform all required safety related duties.

The FAA also has asked ARAC to evaluate these comments and recommend an appropriate rulemaking action (e.g., notice of proposed rule making, withdrawal) or if advisory material should be issued. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s). If ARAC determines that the NPRM or Advisory Circular would be approporiate, those documents are to be submitted in the format prescribed by the FAA.

ARAC Acceptance of Task

ARAC has accepted the task and his chosen to establish an Operator Flight Attendant English Language Program Working Group to which to assign the task. The working group serves as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Operator Flight Attendant English Language Program Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a workplan for completion of the task, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider training and qualification issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider training and qualification issues.

Participation in the Working Group

The Operator Flight Attendant English Language Program Working Group will be composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Operator Flight Attendant English Language Program Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on February 13, 1996.

Thomas Toula,

Assistant Executive Director, for Training and Qualifications, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–3865 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 1996, there were seven applications approved. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Port of Oakland, Oakland, California.

Application Number: 95–05–C–00–OAK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Application: $5,400,000.

Estimated Charge Effective Date: September 1, 1996.

Estimated Charge Expiration Date: February 1, 1997.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators exclusively filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Metropolitan Oakland International Airport.

Brief Description of Project Approved for Collection and Use:

Construct passenger corridor between Terminals One and Two.

Decision Date: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2805.

Public Agency: Town of Massena, New York.

Application Number: 95–01–C–00–MSS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Application: $200,079.

Estimated Charge Effective Date: April 1, 1996.

Estimated Charge Expiration Date: November 1, 2005.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Project Approved for Collection and Use:

Runway 5 obstruction removal, General aviation apron, Taxiway A rehabilitation and lighting, Runway 23 extension environmental assessment, Parallel taxiway A, Runway 5 visual aids and beacon, Runway 5 terrain removal, PFC application, Storm Water pollution prevention plan, Airport pavement management system.

Decision Date: January 11, 1996.

For Further Information Contact: Philip Brito, New York Airports District Office, (516) 227–3803.

Public Agency: City of Phoenix, Arizona.

Application Number: 95–03–C–00–PHX.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Application: $80,978,000.

Estimated Charge Effective Date: April 1, 1996.

Estimated Charge Expiration Date: February 1, 1998.

Classes of Air Carriers Not Required to Collect PFC's:

(1) Air taxi/commercial operators exclusively filing FAA Form 1800–31; (2) commuters-small certificated air carriers filing Department of Transportation Form 298–C schedule T–1 or E–1 with less than 7,500 enplanements per year at Phoenix Sky Harbor International Airport (PHX); and (3) large certificated route air carriers filing Research and Special Programs Administration Form T–100 providing nonscheduled service with less than 7,500 enplanements per year at PHX.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at PHX.

Brief Description of Projects Approved for Collection Use:

Build out Terminal 4 Concourse N–4, Noise mitigation efforts, Realign taxiway F to eliminate jog, Combined third runway project.

Brief Description of Project Approved for Collection:

Extend north runway west.

Decision Date: January 26, 1996.

For Further Information Contact: John P. Milligan, Western Pacific Region Airports Division, (301) 725–3621.

Public Agency: County of Albany, Albany, New York.

Application Number: 95–02–U–00–ALB.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $40,737,924.

Charge Effective Date: March 1, 1994.

Estimated Charge Expiration Date: April 1, 2005.

Class of Air Carriers Not Required to Collect PFC's:

No change to class approved on December 3, 1993.

Brief Description of Projects Approved for Use:

Runway and taxiway improvements, Flood management improvements, Environmental remediation, Airport studies.

Decision Date: January 26, 1996.

For Further Information Contact: Philip Brito, New York Airports District Office, (516)227–3803.

Public Agency: Ogdensburg Bridge and Port Authority, Ogdensburg, New York.

Application Number: 95–01–C–00–OGS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Application: $125,050.

Charge Effective Date: April 1, 1996.

Estimated Charge Expiration Date: March 1, 2006.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

PFC application, Runway 9/27 rehabilitation.

Decision Date: January 26, 1996.

For Further Information Contact: Philip Brito, New York Airports District Office, (516) 227–3803.

Public Agency: Department of Port Control, Cleveland, Ohio.

Application Number: 96–04–U–00–CLE.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $54,018,042.

Charge Effective Date: November 1, 1992.

Estimated Charge Expiration Date: February 1, 1997.

Class of Air Carriers Not Required to Collect PFC's:

No change from previous decision.

Brief Description of Project Approved for Use:

Sewers for confined disposal facility.

Decision Date: January 26, 1996.

For Further Information Contact: Robert L. Conrad, Detroit Airports District Office, (313) 487–7295.

Public Agency: City of St. Louis Airport Authority, St. Louis, Missouri.

Application Number: 95–02–C–00–STL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Application: $80,186,867.

Estimated Charge Effective Date: April 1, 1996.

Estimated Charge Expiration Date: June 1, 1998.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lambert—St. Louis International Airport.

Brief Description of Project Approved for Collection:

Airport noise land acquisition/relocation program (phase II).

Brief Description of Projects Approved for Collection and Use:

Obstruction removal—Washington Park (phase II), East terminal expansion (phase II), High Speed exits off runway 12L/30R, Main terminal rest room rehabilitation, Family assistance center, Upgrade fire alarm system, Install phase protection, Airfield lighting controls FAA Tower, Seismic risk reduction study, Canopies for exits 6 and 14, Modify traffic distribution main terminal, 800 MHz radio communications system (phases II, III, and IV), Taxiway connector from runway 12R/30L to taxiway P, C taxiway connector, Security card access system, East apron III-B and glycol recovery system, West apron at taxiway Delta, Concourse B and C connector, Federal Inspection Service vertical transportation, Airport flight information display system.

Brief Description of Disapproved Projects:

Differential Global Positioning System (GPS) for non-precision approaches.

Determination: Disapproved for the collection of PFC revenue. This project has been determined not to be justified under PFC criteria. The requested GPS differential ground station equipment is not required for a non-precision approach, is not yet approved by the FAA for installation, and may be provided in the future by the FAA. In addition, use of GPS receivers by safety equipment on the airport is not required by Part 139. Accordingly, the project is disapproved for the collection of PFC revenue.

As built drawings for fire protection system.

Determination: Disapproved for the collection and use of PFC revenue. This project has been determined to be ineligible under AIP criteria. This project fails to meet the requirements of paragraph 406 of FAA Order 5100.38A, Airport Improvement Program Handbook (October 24, 1989) for a planning project. Accordingly, the project is disapproved for the collection and use of PFC revenue.

Decision Date: January 31, 1996.

For Further Information Contact: Lorna K. Sandridge, Central Region Airports Division, (816) 426–4730.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Amended approved net PFC revenue	Original approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–01–C–01–PUB Pueblo, CO	1/2/96	$164,376	$1,200,745	08/01/10	09/01/99
92–01–C–02–MSO Missoula, MT	1/2/96	2,049,300	1,782,000	08/01/97	09/01/97

Issued in Washington, DC on 2/14/96.

Donna P. Taylor,

Manager, Passenger Facility Charge Branch.

[FR Doc. 95–3864 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application (#96–01–I–00–ENV) to Impose a Passenger Facility Charge (PFC) at Wendover Airport, Submitted by Wendover Airport Board/City of Wendover, Wendover, Utah

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 a PFC at Wendover Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before March 22, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Chris Melville, Airport Manager at the following address: Wendover Airport Board/City of Wendover, 345 Airport Avenue, P.O. Box 326, Wendover, UT 84083.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Wendover Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 286–5525; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026. 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 (#96–01–I–00–ENV) to impose a PFC at Wendover Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 13, 1996, the FAA determined that the application to impose a PFC submitted by the Wendover Airport Board, Wendover, Utah, 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 May 17, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1996.

Proposed charge expiration date: December 31, 2025.

Total estimated PFC revenues: $10,101,700.00.

Brief description of proposed project: Construct new runway 8–26, including EA, Bond preparation, Land acquisition, Runway lighting, MALSR, Connecting taxiway, Associated road relocation and refurbish ARFF building.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Wendover Airport.

Issued in Renton, Washington on February 13, 1996.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 96–3866 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Federal Railroad Administration

Federal Transit Administration

Participation in the State Infrastructure Bank Pilot Program

AGENCY: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA), Department of Transportation.

ACTION: Notice.

SUMMARY: This notice extends USDOT's open invitation to States to make applications for participation in the State Infrastructure Bank (SIB) Pilot Program established by the National Highway System Designation Act of 1995 (the Act). This notice also sets a deadline for applications of March 8, 1996. If a State has already filed an application, it may be amended, updated, or replaced at any time prior to the deadline. The USDOT published the initial solicitation for the Pilot Program in the Federal Register on December 28, 1995 (60 FR 67159). Application instructions were issued on January 8, 1996.

DATES: Applications for participation must be postmarked by March 8, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Burbank, FHWA Office of Policy Development, (202) 366–9208; Mr. John Paolella, FRA Office of Policy and Program Development; (202) 366–0380; or Mr. Richard Steinmann, FTA Office of Budget and Policy, (202) 366–4060. Application requests and specific questions regarding the SIB Pilot Program may also be directed to the Divisional or Regional Offices of FHWA, FRA, or FTA.

SUPPLEMENTARY INFORMATION: The NHS Act requires that the Secretary review the Pilot Program, review the financial condition of each SIB, and provide recommendations to Congress as to whether the program should be expanded or modified. The report to Congress is due no later than March 1, 1997. The December 28, 1995, Federal Register notice (60 FR 67159) describes SIBs and provides Pilot Program application guidance. As of February 2, 1996, the USDOT received applications and letters of intent from more than ten States. Therefore, to provide access to SIB opportunities, to maximize the effectiveness of the Pilot Program, and to ensure that Congress has for review the best examples of the States' ability to employ innovative financing techniques, the USDOT will forego the rolling approval process originally contemplated. Pursuant to Section 350 of the Act, USDOT is authorized to enter into agreements with up to ten States to establish SIBs or multistate infrastructure banks. Based upon the applications received, the USDOT will expedite a criteria-based selection of the Pilot States following the filing deadline.

The USDOT emphasizes the following selection criteria:

1. The types of assistance to be provided by the SIB (e.g., loans, credit enhancements, capital reserves for debt financing, interest rate subsidies, letters of credit);
2. Identification of projects to be advanced as a result of a Pilot designation;
3. Status of any enabling legislation, if required by a State prior to establishing a SIB;
4. How the SIB relates to other innovative financing efforts underway or planned by States;
5. The relationship of the projects proposed for the SIB to the Statewide Transportation Plan, the approved State Transportation Improvement Program (STIP) and any other Federally required plans;
6. How the SIB will more effectively use Federal monies;
7. The sources of funds that will be used to capitalize the SIB (CMAQ and ISTEA demonstration funds cannot be used), including the availability of non-Federal matching funds required by Section 350(e);
8. The proposed institutional framework for the SIB;
9. Proposed mechanisms and internal procedures to monitor and/or track the flow of Federal funds to accounts in the SIB and the State's preferred reporting procedures to USDOT, given that Section 350 requires maintenance of separate accounts for highways and transit; and
10. The use of a SIB to facilitate development of intermodal or multistate projects.

To assist States in completing their applications, additional guidance on these criteria is provided in the SIB application instructions. Interested States should request a copy of these instructions. Copies of the enabling legislation (Section 350) will be provided with the instructions, which are available from the USDOT contact persons referenced in this notice, or any Divisional or Regional Office of FHWA, FRA, or FTA. USDOT and its modal administrations may seek further clarification of SIB applications in writing or through an informal interview process with States.

Authority: Pub. L. 104–59, § 350, 109 Stat. 568, 618–622 (1995).

Issued on: February 14, 1996.

Rodney E. Slater,

Federal Highway Administrator.

Issued on: February 14, 1996.

Jolene M. Molitoris,

Federal Railroad Administrator.

Issued on: February 14, 1996.

Gordon J. Linton,

Federal Transit Administrator.

[FR Doc. 96–3810 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–22–P

Federal Transit Administration

Environmental Impact Statement for Transportation Improvements in the Greenbush Line Corridor in Massachusetts

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of EIS cancellation.

SUMMARY: Notice is hereby given that the Federal Transit Administration (FTA) is cancelling its preparation of an

Environmental Impact Statement (EIS) for transportation improvements in the Greenbush Corridor linking the coastal communities of Braintree, Weymouth, Hingham, Cohasset, and Scituate, Massachusetts. The project sponsor, the Massachusetts Bay Transportation Authority (MBTA), has announced its intention not to seek Federal financial assistance from FTA in constructing improvements in the Greenbush Corridor.

FOR FURTHER INFORMATION CONTACT: Richard H. Doyle, Regional Administrator, Federal Transit Administration, Region 1, Telephone (617) 494–2055.

SUPPLEMENTARY INFORMATION: On October 5, 1992, FTA published a Notice of Intent (NOI) to prepare an EIS for transportation improvements in the Greenbush Corridor linking the coastal communities of Braintree, Weymouth, Hingham, Cohasset, and Scituate, Massachusetts (57 FR 45864). In March 1995, FTA and the MBTA released a Supplemental Draft EIS (SDEIS), and published a Notice of Availability of that SDEIS on March 24, 1995 (60 FR 15565). In January 1996, however, the MBTA notified FTA that it will not seek Federal funding for transportation improvements in the Greenbush Corridor; rather, the MBTA has chosen to finance the entirety of its project with state funds. Thus, there is no longer a proposal for Federal action in the Greenbush Corridor subject to the requirements of the National Environmental Policy Act, nor an FTA-assisted project subject to the requirements of 49 U.S.C. Section 303 (''Section 4(f)'' of the Department of Transportation Act). Accordingly, FTA is terminating its preparation of an EIS for the Greenbush Corridor.

Issued on: February 15, 1996.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 96–3896 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–57–P

National Highway Traffic Safety Administration

[Docket No. 96–14; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for comments on petition for decision that nonconforming 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a decision that 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is March 22, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141 (a)(1)(A) (formerly section 109(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Europa International, Inc. of Santa Fe, New Mexico (Registered Importer No. R–91–002) has petitioned NHTSA to decide whether 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen MPVs are eligible for importation into the United States. Europa contends that these vehicles are eligible for importation under 49 U.S.C. § 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen MPVs have safety features that comply with Standard Nos. 102 *Transmission Shift Lever Sequence* * * * (based on visual inspection and operation), 103 *Defrosting and Defogging Systems* (based on inspection), 104 *Windshield Wiping and Washing Systems* (based on operation), 106 *Brake Hoses* (based on visual inspection of certification markings), 107 *Reflecting Surfaces* (based on visual inspection), 113 *Hood Latch Systems* (based on information in owner's manual describing operation of secondary latch mechanism), 116 *Brake Fluids* (based on visual inspection of certification markings and information in owner's manual describing fluids installed at factory), 119 *New Pneumatic Tires for Vehicles other than Passenger Cars* (based on visual inspection of certification markings), 124 *Accelerator Control Systems* (based on operation and comparison to U.S.-certified vehicles), 201 *Occupant Protection in Interior Impact* (based on test data and certification of vehicle to European standard), 202 *Head Restraints* (based on Standard No. 208 test data for 1993 model year vehicle with same head restraint and certification of vehicle to European standard), 204 *Steering Control Rearward Displacement* (based

on test film), 205 *Glazing Materials* (based on visual inspection of certification markings, 207 *Seating Systems*, (based on test results and certification of vehicle to European standard), 209 *Seat Belt Assemblies* (based on wiring diagram of seat belt warning system and visual inspection of certification markings), 211 *Wheel Nuts, Wheel Discs and Hubcaps* (based on visual inspection), 214 *Side Impact Protection* (based on test results for identically equipped 1995 model year vehicle), 219 *Windshield Zone Intrusion* (based on test results and certification information for identically equipped 1993 model year vehicle), and 302 *Flammability of Interior Materials* (based on composition of upholstery).

The petitioner also contends that 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaen MPVs are capable of being altered to comply with the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a speedometer/odometer calibrated in miles per hour.

Standard No. 105 *Hydraulic Brake Systems:* Placement of warning label on brake fluid reservoir cap.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model sealed beam headlamps; (b) installation of U.S.-model side marker lamps and reflectors; (c) installation of a high mounted stop lamp on vehicles manufactured after September 1, 1993. The petitioner asserts that testing performed on the taillamp reveals that it complies with the standard, even though it lacks a DOT certification marking, and that all other lights are DOT certified.

Standard No. 111 *Rearview Mirrors:* Inscription of the required warning statement on the convex surface of the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the front doors are open.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* Installation of a tire information placard. The petitioner asserts that even though the tire rims lack a DOT certification marking, they comply with the standard, based on their manufacturer's certification that they comply with the German TUV regulations, as well as their certification by the British Standard Association and the Rim Association of Australia.

Standard No. 206 *Door Locks and Door Retention Components:* Installation of interior locking buttons on all door locks and modification of rear door locks to disable latch release controls when locking mechanism is engaged.

Standard No. 208 *Occupant Crash Protection:* Installation of a complying driver's side air bag and a seat belt warning system. The petitioner asserts that the vehicle conforms to the standard's injury criteria at the front passenger position based on a test report from the vehicle's manufacturer. The petitioner additionally submitted a letter from an engineering concern stating that in frontal impact tests, a vehicle equipped with a V–8 engine will yield driver and passenger HIC measurements that are equivalent to, or better than those of a vehicle equipped with a 6 cylinder engine. The letter attributes this primarily to the fact that a V–8 engine block is six inches shorter than a 6 cylinder engine block, providing a greater crush-zone and therefore a less severe crash pulse. The petitioner states that it intends to meet automatic restraint phase-in requirements for vehicles manufactured after September 1, 1995 by importing other vehicles equipped with passenger-side automatic restraints.

Standard No. 210 *Seat Belt Assembly Anchorages:* Insertion of instructions on the installation and use of child restraints in the owner's manual for the vehicle. The petitioner asserts that the vehicle is certified as complying with a European standard that contains more severe force application requirements than those of this standard.

Standard No. 212 *Windshield Retention:* Application of cement to the windshield's edges.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. § 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 14, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–3811 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 96–13; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1972 Ford Mustang Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1972 Ford Mustang passenger cars manufactured for the Mexican market are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1972 Ford Mustang manufactured for the Mexican market that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 22, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle

that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1972 Ford Mustang passenger cars manufactured for the Mexican market are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1972 Ford Mustang that was manufactured for sale in the United States and certified by its manufacturer, Ford Motor Company, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1972 Ford Mustang to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1972 Ford Mustang, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1972 Fort Mustang is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 101 *Controls and Displays,* 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 111 *Rearview Mirror,* 113 *Hood Latch Systems,* 115 *Vehicle Identification Number,* 116 *Brake Fluid,* 210 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Gazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belts Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of a white license plate lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch in the ignition switch a warning buzzer.

Standard No. 208 *Occupant Crash Protection:* (a) Installation in both from outboard seating positions of lap and upper torso restraints adjustable by means of an automatic-locking retractor, and with a latch mechanism capable of releasing both belts simultaneously; (b) installation Type 1 lap belts in both rear outboard seating positions.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 14, 1996.

Marilynne Jacobs,

Director Office of Vehicle Safety Compliance.

[FR Doc. 96–3825 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–18; OTS No. 04247]

American Savings, FSB, Munster, Indiana; Approval of Conversion Application

Notice is hereby given that on February 12, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of American Savings, FSB, Munster, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: February 14, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3787 Filed 2–20–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–16; OTS Nos. H–2650 and 00832]

Jacksonville Federal M.H.C., Ft. Jacksonville, Texas; Approval of Conversion Application

Notice is hereby given that on February 5, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Jacksonville Federal M.H.C., Jacksonville, Texas, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Dallas, Texas 75039–2010.

Dated: February 14, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3785 Filed 2–20–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–17; OTS No. 3169]

The Yonkers Savings and Loan Association, FA, Yonkers, New York; Approval of Conversion Application

Notice is hereby given that on February 8, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Yonkers Savings and Loan Association, FA, Yonkers, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: February 14, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3786 Filed 2–20–96; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Notice of Meeting of the Cultural Property Advisory Committee

SUMMARY: The Cultural Property Advisory Committee will meet on Wednesday, February 28, 1996, from approximately 9 a.m. to 5 p.m., and on Thursday, February 29, 1996, from approximately 8 a.m. to 12 noon, at USIA headquarters, 301 4th Street SW., Washington, DC. The agenda will include deliberation of a cultural property request from the Government of Nicaragua to the United States Government seeking protection of certain pre-Hispanic archaeological resources. This request, submitted under Article 9 of the 1970 UNESCO Convention, will be considered in accordance with the provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 et seq., P.L. 97–446).

The Committee will also review and discuss internal operating procedures. Since discussion of these matters will involve information the premature disclosure of which would be likely to significantly frustrate implementation of proposed actions, this portion of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h).

Dated: February 15, 1996.

Penn Kemble,

Acting Director, United States Information Agency.

[FR Doc. 96–4008 Filed 2–20–96; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 61, No. 35
Wednesday, February 21, 1996.

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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, February 26, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

DATED: February 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–4042 Filed 2–16–96; 3:03 pm]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 21, 1996, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

OPEN SESSION.

A. Approval of Minutes.

B. New Business.

Regulations *Loan Policies and Operations.*—Lending Authorities [12 CFR Part 614](Proposed).

Dated: February 15, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–3944 Filed 2–16–96; 3:03 pm]

BILLING CODE 6705–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 2:30 p.m., Monday, March 4, 1996.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202/376–2441.

AGENDA:

I. Call to Order.

II. Approval of Minutes: December 18, 1995, Regular Meeting

III. Audit Committee Report: January 30, 1996 Meeting—

a. Annual Audit for FY 1995,

b. Internal Audit Director's Report.

IV. Treasurer's Report.

V. Executive Director's Quarterly Management Report.

VI. Adjourn.

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 96–3948 Filed 2–16–96; 3:03 pm]

BILLING CODE 7570–01–M

Federal Register

Wednesday
February 21, 1996

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1996; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. FR–3933–N–03]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1996

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of final fiscal year (FY) 1996 fair market rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

Today's notice provides final FY 1996 FMRs for all areas. It includes revised FMRs for 6 areas for which the FMRs have been increased as a result of HUD-contracted RDD surveys received in late October. The 6 areas are: Gallatin County, MT; the Johnson City-Kingsport-Bristol, TN–VA; Lexington, KY; Lincoln, NE; Macon, GA; and Raleigh-Durham-Chapel Hill, NC FMR areas.

Today's notice also makes effective the FMR reductions for 26 areas that were proposed in the August 15 notice based on the results of the most recent Random Digit Dialing and American Housing Surveys.

EFFECTIVE DATE: The FMRs published in this notice are effective on February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Operations Division, Office of Rental Assistance, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TDD number, telephone numbers are not toll free.).

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by FMRs established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Method Used to Develop FMRs

FMR Standard: The FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

Data Sources: HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) the 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) the Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) the Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 102 metropolitan FMR areas. RDD Regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the RDD survey FMR estimates will be within 5 percent of the actual value.

State Minimum FMRs: Starting with the FY 1996 FMRs, HUD implemented a new minimum FMR policy in response to numerous public concerns that FMRs in rural areas were too low to operate the program successfully. As a result, FMRs are not established at the higher of the local FMR or the State-wide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Public Comments

In response to the August 15, 1995, proposed FMRs, HUD received 78 public comments covering 59 FMR areas. Rental housing survey information was included for 18 of the FMR areas covered by comments. HUD carefully evaluated all of the survey data submitted and, based on that review, is revising the FMRs for 10 of the 18 areas. The information submitted for the 41 areas that did not provide rental housing survey data was not considered sufficient to provide a basis for revising the FMRs.

Of the 10 FMR areas with approved FMR revisions, 6 submitted RDD surveys conducted by the Public Housing Agency (PHA) or by a professional survey firm, and 4 submitted traditional landlord/owner type surveys. The 6 areas that used the RDD survey method were: the Austin-San Marcos, TX; Boston, MA; Lake Charles, LA; Oakland, CA; Santa Rosa, CA; and the Washington, DC FMR areas. The 4 areas with successful traditional surveys were: the Kenai Peninsular Borough and the Matanuska-Susitna Borough in Alaska and Archuleta County and Laplata County in Colorado.

HUD also received submissions from 7 firms in Iowa, Nebraska, and South Dakota which consisted essentially of an appraisal of an individual project in 15 different FMR areas. This information was referred to the appropriate staff in the HUD field offices with jurisdiction. These submissions have not been counted in this year's summary of FMR comments because they did not address the adequacy of the area-wide FMRs, but rather the need for higher rents in specific projects. The requirements for successful FMR comments are specific in the subsequent section of this preamble, *HUD Rental Housing Survey Guides*, and are included in the preambles of the annual notices of proposed FMRs.

AHS and RDD Surveys

In the August 15, 1995 (60 FR 42290), notice of proposed FMRs, 31 FMR areas had FMRs proposed with reductions based on recent RDD or AHS surveys. Four of these areas subsequently submitted RDD surveys which indicated higher FMRs than the proposed levels. Revised FMRs, therefore, have been approved for the Boston, MA–NH; Oakland, CA; Santa Rosa, CA; and Washington, DC–MD–VA FMR areas. The survey submitted for the Dayton-Springfield, OH FMR area did not contain sufficient rental housing survey information to provide a basis for revising the FMRs. HUD did not receive any comments from the other 26 areas with proposed FMR reductions.

Manufactured Home Space FMRs

HUD also received public comments and survey data from 7 FMR areas concerning the manufactured home space FMRs. As a result of a review of the data, increased FMRs have been approved for 4 of these areas and added to Schedule D. These 4 areas are: Vallejo-Fairfield-Napa, CA; Provo-Orem, UT; Benton County, OR; and Linn County, OR. The information submitted from the other 3 areas was not considered sufficient to provide a basis for revising the manufactured home space FMRs.

Manufactured home space FMRs are 30 percent of the applicable Section 8 Rental Certificate Program two-bedroom FMR. HUD accepts public comments requesting modifications of manufactured home space FMRs. In order to be accepted as a basis for revising the FMRs, such comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the entire FMR area. This program uses the same FMR area definitions as the Section 8 Rental Certificate Program. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the Rental Certificate program FMRs.

Virgin Islands

After consultation with the Virgin Islands Housing Authority, HUD agreed to group the Virgin Islands into two areas for FMR calculation purposes. One area consists of the island of St. Croix and the other the islands of St. Johns and St. Thomas. The revised FMRs, based on the results of a PHA-supported RDD survey, are higher than the previous FMRs for St. Johns and St. Thomas and lower for St. Croix.

Puerto Rico

RDD surveys were conducted for all seven Puerto Rico FMR areas during 1995. HUD's September 18, 1995 (60 FR 48278), Federal Register notice of final FMRs implemented increased FMRs for the Mayaguez and Aguadilla areas. FMRs for the other five Puerto Rico FMR areas, four of which had proposed FMR decreases, were held at their previous levels pending completion of the RDD surveys.

The final FMRs based on the survey results for these five areas are as follows: the FMRs for San Juan and nonmetropolitan Puerto Rico are the same as last year's; the FMRs for Caguas are slightly lower than last year's; and the FMRs for Arecibo and Ponce are being implemented at the reduced proposed levels, although further reductions will be proposed next year for these two areas based on the still lower estimates determined from the RDD survey results.

HUD Rental Housing Survey Guides

HUD recommends use of professionally-conducted RDD telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000–$12,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if the actual two-bedroom FMR rent standard is significantly different than that proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas, in certain circumstances, may do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resultant FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the group of FMR areas.

PHAs that plan to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger PHAs should request ''Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller PHAs should obtain ''Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.''

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small PHA survey guide. Other survey methodologies are acceptable as long as they provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock. All survey results must be fully documented.

FMRs for Federal Disaster Areas

Under the authority granted in 24 CFR part 899, the Secretary finds good cause to waive the regulatory requirements that govern requests for geographic area FMR exceptions for areas that are declared disaster areas by the Federal Emergency Management Agency (FEMA) during FY 1996. HUD is prepared to grant disaster-related exceptions up to 10 percent above the applicable FMRs. HUD field offices are authorized to approve such exceptions for: (1) Single-county FMR areas and for individual county parts of multi-county FMR areas that qualify as disaster areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; if (2) the PHA certifies that damage to the rental housing stock as a result of the disaster is so substantial that it has increased the prevailing rent levels in

the affected area. Such exceptions must be requested in writing by the responsible PHAs. Once approved by HUD, they will remain in effect until superseded by the publication of the final FY 1998 FMRs.

Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate Program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 Program.

The General Counsel, as the Designated Official under Executive Order No. 12606, *The Family*, has determined that this notice will not have a significant impact on family formation, maintenance, or well-being. The notice amends Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, *Federalism*, has determined that this notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, are amended as follows:

Dated: February 7, 1996.

Henry G. Cisneros,

Secretary.

Fair Market Rents for the Section 8 Housing Assistance Payments Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. The FMRs shown in Schedule B incorporate the Office of Management and Budget's (OMB) most current definitions of metropolitan areas (with the exceptions discussed in paragraph b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions. FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition.

b. The exceptions are counties deleted from seven large metropolitan areas whose revised OMB definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Atlanta, GA—Carroll, Pickens, and Walton Counties.
Chicago, IL—DeKalb, Grundy and Kendall Counties.
Cincinnati-Hamilton, OH–KY–IN—Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.
Dallas, TX—Henderson County.
Flagstaff, AZ–UT—Kane County, UT
Lafayette, LA—St. Landry and Acadia Parishes.
New Orleans, LA—St. James Parish.
Washington, DC–MD–VA–WV—Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia.

c. FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands and the Pacific Islands.

d. FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas including the independent cities are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND VIRGINIA INDEPENDENT CITIES INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Southhampton ..	Franklin.
Wise	Norton.

e. FMRs for Section 8 manufactured home spaces are established at 30 percent of the two-bedroom Section 8 Rental Certificate program FMRs, with the exception of the areas listed in Schedule D whose FMRs have been revised on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that will be updated annually using the same data used to estimate the Rental Certificate program FMRs. The FMR area definitions used for manufactured home spaces are the same as for the Section 8 Certificate program.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210–32–M

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	239	283	353	494	559	Calhoun
Birmingham, AL MSA	340	384	447	605	672	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	322	359	430	563	610	Russell
Decatur, AL MSA	317	320	405	523	625	Lawrence, Morgan
Dothan, AL MSA	287	294	365	503	510	Dale, Houston
Florence, AL MSA	269	310	398	496	556	Colbert, Lauderdale
Gadsden, AL MSA	239	292	338	438	539	Etowah
Huntsville, AL MSA	333	390	481	641	762	Limestone, Madison
Mobile, AL MSA	321	358	411	553	649	Baldwin, Mobile
Montgomery, AL MSA	364	389	459	626	753	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	314	337	448	615	651	Tuscaloosa

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	234	278	332	430	492
Bullock	234	278	332	430	492
Chambers	234	278	332	430	493
Chilton	242	278	332	430	492
Clarke	234	278	332	430	492
Cleburne	234	278	332	430	492
Conecuh	234	278	332	430	492
Covington	234	278	332	430	492
Cullman	234	278	332	440	535
Dekalb	234	278	332	430	492
Fayette	234	278	332	430	492
Geneva	234	278	332	430	492
Hale	234	278	332	430	492
Jackson	253	278	332	430	528
Lee	247	345	442	575	727
Macon	255	287	383	479	536
Marion	234	278	332	430	492
Monroe	234	278	332	430	492
Pickens	234	278	332	430	492
Randolph	234	278	332	430	492
Talladega	234	278	332	430	492
Walker	234	289	340	439	560
Wilcox	234	278	332	430	492

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bibb	234	278	332	447	536
Butler	234	278	332	430	492
Cherokee	234	278	332	430	492
Choctaw	234	278	332	430	492
Clay	234	278	332	430	492
Coffee	234	329	427	594	667
Coosa	234	278	332	430	492
Crenshaw	234	278	332	430	492
Dallas	234	278	332	430	492
Escambia	234	278	332	430	492
Franklin	234	278	332	430	492
Greene	234	278	332	430	492
Henry	234	278	332	430	492
Lamar	234	278	332	430	492
Lowndes	234	278	332	430	492
Marengo	234	278	332	430	492
Marshall	268	278	338	469	555
Perry	234	278	332	430	492
Pike	239	278	332	430	500
Sumter	234	278	332	430	492
Tallapoosa	235	278	332	430	492
Washington	234	278	332	430	492
Winston	234	278	332	430	492

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 2

A L A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	473	557	740	1029	1215	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	491	553	623	778	1020
Bethel	633	792	1003	1256	1406
Dillingham	612	622	827	1036	1159
Haines	456	565	644	876	902
Kenai Peninsula	415	529	637	885	1045
Kodiak Island	653	717	931	1164	1510
Matanuska-Susitna	438	593	667	906	1070
North Slope	732	750	927	1290	1503
Pr.Wales-Outer Ketchikan	342	544	625	868	918
Skagway-Yakutat-Angoon	419	426	552	691	775
Valdez-Cordova	512	627	697	890	1060
Wrangell-Petersburg	373	550	668	851	934

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	421	475	533	668	748
Bristol Bay	508	586	660	917	997
Fairbanks North Star	386	525	689	947	1117
Juneau	681	787	1002	1334	1386
Ketchikan Gateway	502	613	821	1143	1201
Lake & Peninsula	392	634	713	890	998
Nome	645	798	896	1247	1407
Northwest Arctic	775	873	980	1363	1608
Sitka	540	641	719	1000	1181
Southeast Fairbanks	430	451	544	680	764
Wade Hampton	366	552	622	777	871
Yukon-Koyukuk	489	551	621	776	899

A R I Z O N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	401	435	564	757	909	Coconino
Las Vegas, NV-AZ MSA	437	519	618	860	1015	Mohave
Phoenix-Mesa, AZ MSA	370	447	561	780	920	Maricopa, Pinal
Tucson, AZ MSA	347	416	553	770	908	Pima
Yuma, AZ MSA	347	401	534	743	748	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	347	364	463	604	718
Gila	347	364	463	604	718
Greenlee	347	364	463	604	718
Navajo	347	364	463	604	718
Yavapai	368	384	512	714	786
Cochise	347	364	463	604	718
Graham	347	364	463	604	718
La Paz	347	364	463	604	718
Santa Cruz	347	384	475	604	718

A R K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	261	327	430	582	602	Benton, Washington
Fort Smith, AR-OK MSA	282	286	376	504	528	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	352	390	464	641	748	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	321	374	440	611	642	Crittenden
Pine Bluff, AR MSA	268	318	419	529	688	Jefferson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 3

A R K A N S A S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Texarkana, TX-Texarkana, AR MSA	286	350	427	563	597	Miller

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	250	270	345	473	513
Baxter	227	290	385	494	602
Bradley	227	270	345	458	513
Carroll	267	292	345	458	547
Clark	250	270	350	458	553
Cleburne	257	270	345	458	520
Columbia	227	270	345	458	513
Craighead	294	320	377	520	549
Dallas	227	270	345	458	513
Drew	227	294	393	543	552
Fulton	235	270	345	458	513
Grant	236	281	345	458	518
Hempstead	227	270	345	458	513
Howard	227	270	345	458	513
Izard	227	270	345	458	513
Johnson	227	270	345	458	513
Lawrence	227	270	345	458	513
Lincoln	246	270	351	470	513
Logan	238	270	345	458	513
Marion	227	270	345	458	513
Monroe	231	270	345	458	513
Nevada	227	270	345	474	513
Ouachita	265	270	345	477	563
Phillips	227	270	345	458	513
Poinsett	227	270	345	458	513
Pope	227	297	376	522	601
Randolph	227	270	345	458	513
Scott	227	270	345	458	513
Sevier	249	270	345	458	513
Stone	227	270	345	458	513
Van Buren	227	270	345	458	566
Woodruff	227	270	345	458	513

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	227	270	345	458	542
Boone	269	274	363	506	597
Calhoun	227	270	345	458	513
Chicot	227	270	345	458	513
Clay	227	270	345	458	513
Cleveland	227	270	345	458	513
Conway	227	281	376	469	526
Cross	236	298	345	465	548
Desha	227	270	345	458	513
Franklin	238	270	345	458	513
Garland	227	290	388	540	638
Greene	244	270	345	458	513
Hot Spring	227	270	345	458	513
Independence	239	277	345	458	513
Jackson	235	270	345	458	513
Lafayette	238	270	345	458	513
Lee	251	270	345	458	513
Little River	227	270	351	487	574
Madison	259	270	351	458	513
Mississippi	258	281	376	495	555
Montgomery	227	270	345	458	513
Newton	227	270	345	458	513
Perry	227	270	345	458	513
Pike	227	270	345	458	513
Polk	227	270	345	458	513
Prairie	227	270	345	458	513
St. Francis	227	276	345	468	550
Searcy	227	270	345	458	513
Sharp	227	270	345	458	513
Union	285	300	361	484	593
White	227	270	345	474	513
Yell	236	270	345	458	513

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 4

C A L I F O R N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	377	425	532	739	819	Kern
Chico-Paradise, CA MSA	314	402	535	734	878	Butte
Fresno, CA MSA	386	432	516	717	826	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	564	676	855	1154	1377	Los Angeles
Merced, CA MSA	374	421	511	706	833	Merced
Modesto, CA MSA	413	445	543	757	891	Stanislaus
Oakland, CA PMSA	515	623	781	1071	1280	Alameda, Contra Costa
Orange County, CA PMSA	637	696	860	1197	1333	Orange
Redding, CA MSA	355	394	493	685	808	Shasta
Riverside-San Bernardino, CA PMSA	455	507	618	859	1014	Riverside, San Bernardino
Sacramento, CA PMSA	444	501	626	870	1025	El Dorado, Placer, Sacramento
Salinas, CA MSA	503	588	709	986	1034	Monterey
San Diego, CA MSA	473	541	677	940	1109	San Diego
San Francisco, CA PMSA	580	751	950	1302	1377	Marin, San Francisco, San Mateo
San Jose, CA PMSA	641	731	903	1238	1391	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA	481	544	690	959	1132	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	585	650	824	1147	1294	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	596	709	948	1317	1544	Santa Cruz
Santa Rosa, CA PMSA	497	581	753	1015	1199	Sonoma
Stockton-Lodi, CA MSA	415	470	602	837	988	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	493	561	684	950	1122	Napa, Solano
Ventura, CA PMSA	533	612	775	1031	1200	Ventura
Visalia-Tulare-Porterville, CA MSA	347	369	480	671	766	Tulare
Yolo, CA PMSA	447	510	630	875	1033	Yolo
Yuba City, CA MSA	309	360	463	646	746	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	294	441	498	692	746
Calaveras	356	411	548	762	898
Del Norte	301	412	548	763	900
Humboldt	303	420	551	768	908
Inyo	304	411	527	691	746
Lake	331	421	562	708	921
Mariposa	317	403	519	679	802
Modoc	321	360	463	646	746
Nevada	368	503	670	932	1080
San Benito	441	519	650	905	1060
Siskiyou	308	360	463	646	746
Trinity	330	360	463	646	746

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	405	447	596	830	925
Colusa	321	360	463	646	746
Glenn	294	360	463	646	746
Imperial	332	415	511	712	746
Kings	341	395	494	687	810
Lassen	360	364	473	646	746
Mendocino	406	489	601	837	843
Mono	449	538	715	994	1175
Plumas	324	360	463	646	746
Sierra	294	393	485	674	796
Tehama	307	360	463	646	746
Tuolumne	325	444	592	823	971

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

C O L O R A D O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	434	520	667	929	1095	Boulder
Colorado Springs, CO MSA	372	398	531	739	874	El Paso
Denver, CO PMSA	365	435	579	804	949	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	384	474	585	812	960	Larimer
Grand Junction, CO MSA	354	367	459	618	736	Mesa
Greeley, CO PMSA	365	403	507	704	833	Weld
Pueblo, CO MSA	372	386	482	649	773	Pueblo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	354	367	459	618	736
Baca	354	367	459	618	736
Chaffee	354	367	459	618	736
Clear Creek	354	412	467	650	766
Costilla	354	367	459	618	736
Custer	354	367	459	618	736
Dolores	354	367	459	618	736
Elbert	390	434	494	618	811
Garfield	411	440	556	694	910
Grand	420	424	537	672	813
Hinsdale	354	374	459	618	736
Jackson	354	367	459	618	736
Kit Carson	354	367	459	618	736
La Plata	462	511	674	938	1107
Lincoln	354	367	459	618	736
Mineral	354	367	459	618	736
Montezuma	354	367	459	618	736
Morgan	354	367	459	618	736
Ouray	354	367	464	618	751
Phillips	354	367	459	618	736
Prowers	354	367	459	618	736
Rio Grande	354	367	459	618	736
Saguache	354	367	459	618	736
San Miguel	651	940	1033	1291	1665
Summit	456	546	699	973	1198
Washington	354	367	459	618	736

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	423	463	548	738	879
Bent	354	367	459	618	736
Cheyenne	354	367	459	618	736
Conejos	354	367	459	618	736
Crowley	354	367	459	618	736
Delta	354	367	459	618	736
Eagle	476	518	691	962	1134
Fremont	354	367	459	618	736
Gilpin	354	470	597	788	872
Gunnison	354	367	459	618	736
Huerfano	354	367	459	618	736
Kiowa	354	367	459	618	736
Lake	354	367	459	618	736
Las Animas	354	377	459	618	736
Logan	354	367	459	618	736
Moffat	354	367	459	618	736
Montrose	354	367	464	643	759
Otero	354	367	459	618	736
Park	354	391	510	708	805
Pitkin	531	726	967	1276	1450
Rio Blanco	354	367	459	618	736
Routt	354	428	565	785	925
San Juan	354	367	459	618	736
Sedgwick	354	367	459	618	736
Teller	354	419	559	777	783
Yuma	354	367	459	618	736

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 6

C O N N E C T I C U T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	444	577	695	869	1085	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	636	761	950	1255	1446	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT PMSA	422	524	670	840	1021	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	528	648	802	1026	1189	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	476	575	700	877	1002	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 7

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	710	832	1014	1359	1501	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT MSA	403	545	674	842	942	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT	455	551	689	859	963	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	342	552	623	866	1021	Hartland town
Litchfield	397	540	721	901	1025	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	588	666	890	1237	1459	Chester town, Deep River town, Essex town Westbrook town
New London	498	610	693	895	1136	Lyme town, Voluntown town
Tolland	342	552	623	866	872	Union town
Windham	393	481	623	780	979	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	415	460	525	681	773	Kent
Wilmington-Newark, DE-MD PMSA	409	541	630	856	1033	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	364	386	493	647	691

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	584	663	779	1060	1278	District of Columbia

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	375	438	561	745	790	Flagler, Volusia
Fort Lauderdale, FL PMSA	470	552	683	951	1121	Broward
Fort Myers-Cape Coral, FL MSA	417	481	580	809	845	Lee
Fort Pierce-Port Lucie, FL MSA	428	470	609	792	854	Martin, St. Lucie
Fort Walton Beach, FL MSA	375	409	463	629	742	Okaloosa
Gainesville, FL MSA	375	409	497	681	804	Alachua
Jacksonville, FL MSA	391	438	528	698	776	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	375	409	463	588	674	Polk
Melbourne-Titusville-Palm Bay, FL MSA	375	445	557	746	870	Brevard
Miami, FL PMSA	459	575	718	986	1143	Dade
Naples, FL MSA	401	565	679	944	1053	Collier
Ocala, FL MSA	375	409	463	609	715	Marion
Orlando, FL MSA	464	528	629	826	1008	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	375	409	463	592	635	Bay
Pensacola, FL MSA	375	409	463	620	732	Escambia, Santa Rosa
Punta Gorda, FL MSA	375	429	571	793	936	Charlotte
Sarasota-Bradenton, FL MSA	376	477	606	781	849	Manatee, Sarasota
Tallahassee, FL MSA	384	423	559	731	881	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	370	440	545	725	878	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	458	536	663	882	1089	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	368	402	455	564	614
Calhoun	368	402	455	564	614
Columbia	368	402	455	564	614
Dixie	368	402	455	564	614
Gilchrist	368	402	455	564	614
Gulf	368	402	455	564	614
Hardee	368	402	455	564	614
Highlands	368	402	455	566	633
Indian River	368	460	591	739	827
Jefferson	368	402	455	564	614
Levy	368	402	455	564	614
Madison	368	402	455	564	614
Okeechobee	368	402	455	564	620
Sumter	368	402	455	564	614
Taylor	368	402	455	564	615
Wakulla	368	402	455	564	614
Washington	368	402	455	564	614

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	368	402	455	564	614
Citrus	368	402	455	564	614
Desoto	368	402	455	564	614
Franklin	368	402	455	564	614
Glades	368	402	455	564	614
Hamilton	368	402	455	564	614
Hendry	368	402	469	587	658
Holmes	368	402	455	564	614
Jackson	368	402	455	564	614
Lafayette	368	402	455	564	614
Liberty	368	402	455	564	614
Monroe	527	594	763	1052	1251
Putnam	368	402	455	564	614
Suwannee	368	402	455	564	614
Union	368	402	455	564	614
Walton	368	402	455	585	732

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G E O R G I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	279	327	400	546	590	Dougherty, Lee
Athens, GA MSA	345	371	480	654	788	Clarke, Madison, Oconee
Atlanta, GA	465	518	604	803	973	Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, Dekalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding
Augusta-Aiken, GA-SC MSA	331	396	466	634	750	Columbia, Mcduffie, Richmond
Carroll County, GA	310	325	419	583	689	Carroll
Chattanooga, TN-GA MSA	318	373	447	577	658	Catoosa, Dade, Walker
Columbus, GA-AL MSA	322	359	430	563	610	Chattahoochee, Harris, Muscogee
Macon, GA MSA	361	403	467	645	663	Bibb, Houston, Jones, Peach, Twiggs
Pickens County, GA	270	325	401	557	585	Pickens
Savannah, GA MSA	337	418	486	655	682	Bryan, Chatham, Effingham
Walton County, GA	344	371	478	664	784	Walton

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling	267	322	393	510	579	Atkinson	267	322	393	510	579
Bacon	267	322	393	510	579	Baker	267	322	393	510	579
Baldwin	267	342	417	534	583	Banks	267	322	393	510	579
Ben Hill	267	322	393	510	587	Berrien	267	322	393	510	579
Bleckley	267	322	393	510	579	Brantley	267	322	393	510	579
Brooks	267	322	393	510	579	Bulloch	322	327	420	541	687
Burke	267	322	393	510	579	Butts	267	353	470	628	658
Calhoun	267	322	393	510	579	Camden	374	423	474	658	778
Candler	267	322	393	510	579	Charlton	267	322	393	510	579
Chattooga	267	322	393	510	579	Clay	267	322	393	510	579
Clinch	267	322	393	510	579	Coffee	267	322	393	510	587
Colquitt	267	322	393	510	579	Cook	267	322	393	510	579
Crawford	267	322	393	510	579	Crisp	270	322	393	510	579
Dawson	267	347	463	578	714	Decatur	267	322	393	510	579
Dodge	267	322	393	510	579	Dooly	267	322	393	510	579
Early	267	322	393	510	579	Echols	267	322	393	510	579
Elbert	267	322	393	510	579	Emanuel	267	322	393	510	579
Evans	267	322	393	510	579	Fannin	267	322	393	510	579
Floyd	267	322	394	521	579	Franklin	267	322	393	510	579
Gilmer	267	322	393	510	579	Glascock	267	322	393	510	579
Glynn	373	417	473	634	777	Gordon	317	322	401	518	661
Grady	272	322	393	510	579	Greene	267	322	393	510	579
Habersham	287	322	393	510	584	Hall	283	430	505	633	707
Hancock	267	322	393	510	579	Haralson	267	322	393	510	579
Hart	267	322	393	510	579	Heard	267	322	393	510	579
Irwin	267	322	393	510	579	Jackson	298	322	404	510	665

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jasper	267	322	398	541	579
Jefferson	267	322	393	510	587
Johnson	267	322	393	510	579
Lanier	267	322	393	510	579
Liberty	333	371	422	586	591
Long	267	347	393	510	579
Lumpkin	267	360	405	542	665
Macon	267	322	393	510	579
Meriwether	267	322	393	510	579
Mitchell	267	322	393	510	579
Montgomery	267	322	393	510	579
Murray	267	322	393	510	579
Pierce	267	322	393	510	579
Polk	267	322	393	532	579
Putnam	267	322	393	510	587
Rabun	267	322	393	510	579
Schley	267	322	393	510	579
Seminole	267	322	393	510	579
Stewart	267	322	393	510	579
Talbot	267	322	393	510	579
Tattnall	267	322	393	510	579
Telfair	267	322	393	510	579
Thomas	267	332	393	510	579
Toombs	267	322	393	510	579
Treutlen	267	322	393	510	579
Turner	267	322	393	510	579
Upson	276	322	393	510	579
Warren	267	322	393	510	579
Wayne	276	322	393	510	579
Wheeler	267	322	393	510	579
Whitfield	267	350	422	539	636
Wilkes	267	322	393	510	579
Worth	267	322	393	510	579

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jeff Davis	267	322	393	510	579
Jenkins	267	322	393	510	579
Lamar	267	331	393	510	624
Laurens	273	322	393	510	579
Lincoln	267	322	393	510	579
Lowndes	300	362	438	615	679
Mcintosh	267	322	393	510	579
Marion	267	322	393	510	579
Miller	267	322	393	510	579
Monroe	267	322	393	519	579
Morgan	267	322	408	510	579
Oglethorpe	267	322	393	510	579
Pike	310	337	426	593	597
Pulaski	267	322	393	510	579
Quitman	267	322	393	510	579
Randolph	267	322	393	510	579
Screven	267	322	393	510	579
Stephens	267	322	393	510	579
Sumter	267	327	393	510	579
Taliaferro	267	322	393	510	579
Taylor	267	322	393	510	579
Terrell	267	322	393	510	579
Tift	267	322	393	510	579
Towns	267	322	393	510	579
Troup	267	364	410	512	579
Union	267	322	411	515	579
Ware	296	332	393	510	613
Washington	267	322	393	510	579
Webster	267	322	393	510	579
White	267	322	393	510	593
Wilcox	267	322	393	510	579
Wilkinson	267	322	393	510	579

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	691	826	973	1315	1423	Honolulu

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	459	598	687	914	1126
Maui	741	919	1121	1448	1640
Kauai	586	876	1067	1410	1525

I D A H O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	371	424	515	715	845	Ada, Canyon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	263	305	394	521	617
Bear Lake	263	305	394	521	617
Bingham	280	305	394	521	617
Boise	263	340	394	521	617
Bonneville	268	338	463	623	761
Butte	263	305	394	521	617
Caribou	263	305	394	521	617
Clark	263	305	394	521	617
Custer	263	305	394	521	617
Franklin	263	305	394	521	617
Gem	263	305	394	521	617
Idaho	263	305	394	521	617
Jerome	263	305	394	521	617
Latah	263	305	394	521	625
Lewis	263	305	394	521	617
Madison	263	305	394	521	617
Nez Perce	268	305	394	521	617
Owyhee	263	305	394	521	617
Power	263	305	394	521	617
Teton	287	305	394	533	630
Valley	274	305	394	521	617
Bannock	263	305	394	539	635
Benewah	263	305	394	521	617
Blaine	407	448	597	832	981
Bonner	302	375	463	643	740
Boundary	263	305	394	521	617
Camas	263	305	394	521	617
Cassia	263	305	394	521	617
Clearwater	263	305	394	521	617
Elmore	263	305	394	521	617
Fremont	263	305	394	521	617
Gooding	263	305	394	521	617
Jefferson	271	305	394	521	617
Kootenai	335	394	515	717	847
Lemhi	263	305	394	521	617
Lincoln	263	305	394	521	617
Minidoka	263	305	394	521	617
Oneida	264	305	394	521	617
Payette	263	305	394	521	617
Shoshone	263	305	394	521	617
Twin Falls	263	305	399	525	617
Washington	263	305	394	521	617

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 12

I L L I N O I S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	301	368	493	684	723	Mclean
Champaign-Urbana, IL MSA	324	397	514	705	844	Champaign
Chicago, IL	492	591	704	881	985	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	263	364	450	582	630	Henry, Rock Island
Decatur, IL MSA	252	326	419	566	587	Macon
De Kalb County, IL	381	444	563	781	906	Dekalb
Grundy County, IL	333	384	511	675	717	Grundy
Kankakee, IL PMSA	302	366	488	623	683	Kankakee
Kendall County, Il	460	524	632	880	885	Kendall
Peoria-Pekin, IL MSA	310	343	459	611	750	Peoria, Tazewell, Woodford
Rockford, IL MSA	301	386	470	591	689	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	297	362	471	612	677	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	291	359	479	637	724	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	244	275	353	463	562	Alexander	244	275	353	463	520
Bond	244	275	353	463	520	Brown	244	275	353	463	520
Bureau	244	308	362	463	520	Calhoun	244	275	353	463	520
Carroll	244	275	353	463	520	Cass	245	275	353	463	520
Christian	263	275	355	465	520	Clark	244	275	353	463	520
Clay	244	275	353	463	520	Coles	258	307	409	543	642
Crawford	244	275	353	463	520	Cumberland	244	275	353	463	520
De Witt	248	275	353	467	520	Douglas	261	275	353	463	520
Edgar	244	275	353	463	520	Edwards	244	275	353	463	520
Effingham	244	283	353	463	520	Fayette	244	275	353	463	520
Ford	233	326	424	544	595	Franklin	244	275	353	463	520
Fulton	244	275	353	463	520	Gallatin	244	275	353	463	520
Greene	244	275	353	463	520	Hamilton	244	276	353	463	520
Hancock	244	275	353	463	520	Hardin	244	275	353	463	520
Henderson	244	275	353	463	520	Iroquois	244	275	353	463	520
Jackson	296	297	375	533	596	Jasper	244	277	353	463	520
Jefferson	245	288	360	491	520	Jo Daviess	271	293	353	463	520
Johnson	244	275	353	463	520	Knox	244	275	353	463	537
La Salle	244	286	382	516	579	Lawrence	244	275	353	463	520
Lee	273	281	374	468	526	Livingston	244	301	402	518	565
Logan	274	291	387	485	608	Mcdonough	244	280	353	463	557
Macoupin	244	275	353	463	520	Marion	249	275	353	463	520
Marshall	244	275	353	463	520	Mason	244	275	353	463	527
Massac	245	275	353	463	520	Mercer	244	275	353	463	520
Montgomery	244	275	353	463	520	Morgan	244	309	412	548	578

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

ILLINOIS continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Moultrie	244	275	353	476	520
Piatt	244	297	386	527	541
Pope	244	275	353	463	520
Putnam	244	275	353	463	520
Richland	244	275	353	463	520
Schuyler	244	275	353	463	520
Shelby	244	275	353	463	520
Stephenson	258	295	373	467	524
Vermilion	244	311	389	487	544
Warren	258	275	353	463	520
Wayne	244	275	353	463	520
Whiteside	258	294	391	490	551

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Perry	245	275	353	463	520
Pike	244	275	353	463	520
Pulaski	244	275	353	463	520
Randolph	244	275	353	463	520
Saline	244	275	353	463	520
Scott	244	275	353	463	520
Stark	244	275	353	463	520
Union	244	275	353	463	520
Wabash	244	275	353	463	549
Washington	244	293	390	489	634
White	244	275	353	463	520
Williamson	244	275	355	494	520

INDIANA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	302	391	521	723	854	Monroe
Cincinnati, OH-KY-IN	289	372	498	667	720	Dearborn
Elkhart-Goshen, IN MSA	346	395	500	640	734	Elkhart
Evansville-Henderson, IN-KY MSA	255	312	405	507	567	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	297	379	470	606	659	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	313	412	513	644	720	Lake, Porter
Indianapolis, IN MSA	339	425	511	640	717	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	278	329	429	552	600	Howard, Tipton
Lafayette, IN MSA	297	376	502	698	824	Clinton, Tippecanoe
Louisville, KY-IN MSA	293	377	461	638	673	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	276	344	407	552	652	Delaware
Ohio County, IN	269	303	387	499	549	Ohio
South Bend, IN MSA	298	396	522	651	730	St. Joseph
Terre Haute, IN MSA	268	314	400	500	558	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	374	403	487	608	800
Blackford	264	297	392	491	549
Carroll	264	297	380	490	538
Crawford	264	297	380	490	538
Decatur	264	322	412	533	580
Fayette	264	297	381	490	577
Franklin	264	297	380	490	602

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	264	297	380	490	538
Brown	264	350	461	641	664
Cass	264	297	380	490	538
Daviess	264	297	380	490	538
Dubois	264	297	380	490	555
Fountain	264	297	380	490	538
Fulton	291	304	380	511	538

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Gibson	264	297	380	490	538
Greene	264	297	380	490	538
Jackson	324	339	419	554	595
Jay	264	297	380	490	538
Jennings	276	297	380	490	538
Kosciusko	264	349	421	546	590
La Porte	269	325	435	557	609
Marshall	312	317	421	531	590
Miami	264	297	380	490	538
Newton	276	297	380	490	538
Orange	264	297	380	490	538
Parke	264	297	380	490	562
Pike	264	297	380	490	538
Putnam	287	334	411	551	556
Ripley	264	297	380	498	563
Spencer	264	297	380	490	538
Steuben	323	365	436	544	609
Switzerland	264	297	380	490	538
Wabash	264	297	380	490	538
Washington	264	297	380	490	538
White	264	297	380	490	594

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Grant	279	297	380	492	538
Henry	264	297	380	490	538
Jasper	264	320	380	490	538
Jefferson	264	297	380	490	538
Knox	269	297	385	490	539
Lagrange	269	309	395	513	597
Lawrence	264	297	380	494	538
Martin	264	297	380	490	538
Montgomery	308	324	404	512	567
Noble	304	310	386	499	551
Owen	264	297	380	490	563
Perry	264	297	380	490	538
Pulaski	264	297	380	490	538
Randolph	264	297	380	490	538
Rush	272	297	380	490	563
Starke	264	297	380	490	538
Sullivan	264	297	380	490	538
Union	264	297	380	490	538
Warren	264	297	380	490	538
Wayne	264	297	380	490	538

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	258	363	466	650	697	Linn
Davenport-Moline-Rock Island, IA-IL MSA	263	364	450	582	630	Scott
Des Moines, IA MSA	350	444	545	707	743	Dallas, Polk, Warren
Dubuque, IA MSA	273	334	430	549	669	Dubuque
Iowa City, IA MSA	311	401	515	715	845	Johnson
Omaha, NE-IA MSA	279	382	483	633	710	Pottawattamie
Sioux City, IA-NE MSA	290	348	434	542	618	Woodbury
Waterloo-Cedar Falls, IA MSA	255	325	406	541	635	Black Hawk

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	250	309	388	492	543
Allamakee	250	309	388	497	569
Audubon	250	309	388	492	543
Boone	250	328	388	497	589
Buchanan	264	309	388	492	543
Butler	266	309	388	492	543
Carroll	250	309	388	492	543
Cedar	250	313	388	492	543
Cherokee	250	309	388	492	543
Clarke	257	309	388	492	543
Clayton	250	309	388	492	543
Crawford	250	309	388	492	543
Decatur	250	309	388	492	543
Des Moines	250	318	410	513	573
Emmet	250	309	388	492	573
Floyd	272	309	388	492	543
Fremont	275	309	388	492	571
Grundy	250	309	388	492	557
Hamilton	285	323	392	492	549
Hardin	250	309	388	492	543
Henry	250	316	402	503	569
Humboldt	250	309	388	492	543
Iowa	250	309	388	492	543
Jasper	250	316	401	501	561
Jones	259	309	388	492	543
Kossuth	250	309	388	492	543
Louisa	250	309	388	492	543
Lyon	250	309	388	492	543
Mahaska	250	309	388	492	543
Marshall	250	309	388	492	543
Mitchell	250	309	388	492	543
Monroe	250	325	388	492	571
Muscatine	250	309	410	545	573
Osceola	250	309	388	492	543
Palo Alto	250	309	388	492	543
Pocahontas	250	309	388	492	543
Ringgold	250	309	388	492	543
Shelby	250	309	388	492	543
Story	325	395	465	646	739
Taylor	250	309	388	492	544

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	250	309	388	492	543
Appanoose	250	309	388	492	546
Benton	257	309	388	492	543
Bremer	250	309	388	492	577
Buena Vista	265	309	388	492	543
Calhoun	250	309	388	492	543
Cass	250	309	388	492	543
Cerro Gordo	250	327	405	540	566
Chickasaw	250	309	388	492	543
Clay	250	309	388	492	543
Clinton	250	309	393	492	550
Davis	250	309	388	492	543
Delaware	250	309	388	492	543
Dickinson	250	309	388	492	543
Fayette	250	309	388	492	543
Franklin	257	309	388	492	543
Greene	250	309	388	492	543
Guthrie	250	309	388	492	570
Hancock	250	309	388	492	543
Harrison	250	309	388	492	543
Howard	250	309	388	492	566
Ida	257	309	388	492	543
Jackson	250	309	390	492	546
Jefferson	250	315	420	547	691
Keokuk	250	309	388	492	543
Lee	250	309	400	500	560
Lucas	250	309	388	492	543
Madison	250	309	403	516	565
Marion	250	342	420	525	589
Mills	250	334	394	494	552
Monona	250	309	388	492	543
Montgomery	275	310	388	492	543
O'Brien	250	309	388	492	543
Page	250	309	388	492	543
Plymouth	250	309	405	506	566
Poweshiek	265	328	420	525	589
Sac	250	309	388	492	543
Sioux	250	309	388	492	543
Tama	250	309	388	492	543
Union	250	309	388	492	571

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Van Buren	250	309	388	492	543
Washington	250	309	388	492	571
Webster	250	309	393	494	551
Winneshiek	250	309	388	492	543
Wright	250	309	388	492	543
Wapello	250	309	391	492	547
Wayne	250	309	388	492	543
Winnebago	250	314	388	492	543
Worth	250	309	388	492	551

K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	319	402	483	668	740	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	332	397	510	710	817	Douglas
Topeka, KS MSA	312	359	466	630	711	Shawnee
Wichita, KS MSA	306	368	493	665	719	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	255	288	370	477	531
Atchison	255	288	370	477	569
Barton	255	288	370	477	531
Brown	255	288	370	477	531
Chautauqua	255	288	370	477	531
Cheyenne	255	288	370	477	531
Clay	255	288	370	477	531
Coffey	264	288	370	477	555
Cowley	272	288	370	489	531
Decatur	255	288	370	477	531
Doniphan	255	288	370	477	531
Elk	255	288	370	477	531
Ellsworth	255	288	370	477	531
Ford	273	322	402	506	570
Geary	313	329	411	531	576
Graham	255	288	370	477	531
Gray	255	288	370	477	531
Greenwood	255	288	370	477	531
Harper	255	288	370	477	531
Hodgeman	255	288	370	477	531
Jefferson	255	288	377	500	531
Kearny	283	288	381	512	562
Kiowa	255	288	370	477	531
Lane	255	288	370	477	531
Linn	255	288	370	477	531
Lyon	255	288	370	477	566
Anderson	255	288	370	477	531
Barber	255	288	370	477	531
Bourbon	255	288	370	477	531
Chase	255	288	370	477	531
Cherokee	255	288	370	477	531
Clark	255	288	370	477	531
Cloud	255	288	370	477	531
Comanche	255	288	370	477	531
Crawford	255	288	377	477	531
Dickinson	255	288	370	477	531
Edwards	255	288	370	477	531
Ellis	255	288	370	477	531
Finney	314	336	430	559	707
Franklin	276	288	373	477	583
Gove	255	288	370	477	531
Grant	255	323	370	507	552
Greeley	255	288	370	477	531
Hamilton	255	288	370	477	531
Haskell	255	295	370	477	531
Jackson	255	288	370	477	531
Jewell	255	288	370	477	531
Kingman	255	288	370	477	531
Labette	255	288	370	477	531
Lincoln	255	288	370	477	531
Logan	255	288	370	477	531
Mcpherson	257	288	370	477	531

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

K A N S A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Marion	255	288	370	477	531
Meade	255	288	370	477	531
Montgomery	255	288	370	477	531
Morton	255	310	370	477	531
Neosho	255	288	370	477	531
Norton	255	288	370	477	531
Osborne	255	288	370	477	532
Pawnee	255	288	370	477	531
Pottawatomie	255	288	370	477	544
Rawlins	255	288	370	477	531
Republic	255	288	370	477	531
Riley	315	347	462	578	701
Rush	255	288	370	477	531
Saline	279	288	381	526	533
Seward	286	312	415	520	581
Sherman	255	288	370	477	531
Stafford	255	288	370	477	531
Stevens	255	289	370	477	546
Thomas	255	288	370	477	531
Wabaunsee	255	288	370	477	531
Washington	255	288	370	477	531
Wilson	255	288	370	477	531

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Marshall	255	288	370	477	531
Mitchell	255	288	370	477	531
Morris	255	288	370	477	531
Nemaha	255	288	370	477	531
Ness	255	288	370	477	531
Osage	255	288	370	477	531
Ottawa	255	288	370	477	531
Phillips	255	288	370	477	531
Pratt	255	288	370	487	531
Reno	255	288	370	477	577
Rice	255	288	370	477	531
Rooks	255	288	370	477	531
Russell	255	288	370	477	531
Scott	255	288	370	487	559
Sheridan	255	288	370	477	531
Smith	255	288	370	477	531
Stanton	255	288	370	477	531
Sumner	255	288	370	500	531
Trego	255	288	370	477	531
Wallace	255	288	370	477	531
Wichita	255	288	381	477	593
Woodson	255	288	370	477	531

K E N T U C K Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	289	372	498	667	720	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	313	351	411	561	576	Christian
Evansville-Henderson, IN-KY MSA	255	312	405	507	567	Henderson
Gallatin County, KY	242	330	404	506	662	Gallatin
Grant County, KY	241	287	380	531	627	Grant
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Boyd, Carter, Greenup
Lexington, KY MSA	317	395	484	659	745	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	293	377	461	638	673	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	276	286	377	506	529	Daviess
Pendleton County, KY	243	281	375	471	527	Pendleton

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	238	291	343	454	498
Anderson	262	277	359	448	503
Barren	238	288	343	443	498
Bell	238	277	346	443	498
Bracken	238	277	343	443	498
Breckinridge	238	277	343	443	498
Caldwell	238	277	343	443	498
Carlisle	238	277	343	443	498
Casey	238	277	343	443	498
Clinton	238	277	343	443	498
Cumberland	238	277	343	443	498
Elliott	238	277	343	443	498
Fleming	238	277	343	443	498
Franklin	238	349	429	554	700
Garrard	238	277	343	443	498
Grayson	238	277	343	443	498
Hancock	238	277	343	447	531
Harlan	238	361	412	537	634
Hart	238	277	343	443	498
Hickman	238	277	343	443	498
Jackson	238	277	343	443	498
Knott	238	277	343	443	498
Larue	238	277	343	443	498
Lawrence	238	277	343	443	498
Leslie	238	277	343	443	498
Lewis	238	277	343	443	498
Livingston	274	277	370	514	518
Lyon	238	277	343	443	498
Mccreary	238	277	343	443	498
Magoffin	238	277	343	443	498
Marshall	238	283	343	443	533
Mason	238	277	343	443	498
Menifee	238	277	343	443	498
Metcalfe	238	277	343	443	498
Montgomery	238	277	343	443	498
Muhlenberg	238	277	343	443	498
Nicholas	238	277	343	443	498
Owen	238	277	343	443	511
Perry	266	277	357	446	500
Powell	238	277	343	443	498

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	238	277	343	443	498
Ballard	238	277	343	443	498
Bath	238	277	343	443	498
Boyle	283	287	383	479	536
Breathitt	238	277	343	443	498
Butler	238	277	343	443	498
Calloway	238	277	343	443	498
Carroll	238	277	343	443	498
Clay	238	277	343	443	498
Crittenden	238	277	343	443	498
Edmonson	238	277	343	443	498
Estill	238	277	343	443	498
Floyd	251	304	343	476	547
Fulton	238	277	343	443	498
Graves	238	277	343	443	498
Green	238	277	343	443	498
Hardin	296	303	380	511	606
Harrison	238	278	351	443	543
Henry	238	277	343	443	498
Hopkins	238	277	343	443	503
Johnson	238	277	343	443	498
Knox	238	329	421	528	647
Laurel	310	350	416	561	581
Lee	238	277	343	443	498
Letcher	238	277	343	443	498
Lincoln	238	277	343	443	498
Logan	238	277	343	452	498
Mccracken	269	290	362	464	595
Mclean	238	277	343	443	498
Marion	238	277	343	443	498
Martin	238	277	343	443	498
Meade	246	305	351	465	578
Mercer	238	277	343	452	498
Monroe	238	277	343	443	498
Morgan	238	277	343	443	498
Nelson	261	277	353	443	498
Ohio	238	277	343	443	498
Owsley	238	277	343	443	498
Pike	255	292	353	443	524
Pulaski	261	277	351	444	498

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Robertson	238	277	343	443	498
Rowan	238	277	343	443	518
Shelby	239	314	351	490	498
Spencer	238	283	343	443	498
Todd	238	277	343	443	498
Trimble	238	277	343	443	498
Warren	238	307	411	513	593
Wayne	238	277	343	443	498
Whitley	238	277	343	443	498
Rockcastle	238	277	343	443	498
Russell	238	277	343	443	498
Simpson	238	298	347	444	498
Taylor	287	339	380	508	574
Trigg	238	277	343	443	498
Union	238	277	343	443	498
Washington	238	281	343	443	498
Webster	238	277	343	443	498
Wolfe	238	277	343	443	498

L O U I S I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	260	325	409	566	576	Rapides
Acadia Parishes, LA	256	284	343	449	501	Acadia
Baton Rouge, LA MSA	282	351	435	604	713	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	256	301	385	535	633	Lafourche, Terrebonne
Lafayette, LA MSA	291	336	401	551	652	Lafayette, St. Martin
Lake Charles, LA MSA	350	407	516	676	846	Calcasieu
Monroe, LA MSA	281	315	420	567	589	Ouachita
New Orleans, LA	337	386	482	656	793	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	256	289	385	481	539	St. James
St. Landry Parish, LA	256	279	343	449	501	St. Landry
Shreveport-Bossier City, LA MSA	317	360	453	606	743	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	256	279	343	449	501
Avoyelles	256	279	343	449	503
Bienville	256	279	343	455	538
Cameron	256	279	343	449	501
Claiborne	256	279	343	449	501
De Soto	256	279	343	449	505
East Feliciana	256	279	343	449	501
Franklin	256	279	343	449	505
Iberia	271	283	350	449	501
Jackson	256	279	343	449	501
La Salle	256	279	343	449	505
Madison	256	279	343	449	501
Natchitoches	274	281	362	502	505
Red River	256	279	343	449	505
Assumption	281	301	357	449	501
Beauregard	312	340	403	527	579
Caldwell	256	279	343	449	501
Catahoula	256	279	343	449	501
Concordia	256	279	343	449	501
East Carroll	256	279	343	449	501
Evangeline	256	279	343	449	501
Grant	256	279	343	449	501
Iberville	256	279	343	449	517
Jefferson Davis	256	279	343	449	509
Lincoln	301	303	379	520	622
Morehouse	256	279	343	449	501
Pointe Coupee	256	279	343	449	544
Richland	256	279	343	449	505

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sabine	256	286	343	449	528
St. Mary	281	300	378	515	536
Tensas	256	279	343	449	501
Vermilion	256	279	343	449	501
Washington	256	279	343	449	501
West Feliciana	256	333	446	558	626
St. Helena	256	279	343	449	501
Tangipahoa	275	286	367	481	513
Union	256	279	343	449	505
Vernon	294	328	374	483	571
West Carroll	256	279	343	449	501
Winn	256	279	343	449	501

M A I N E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	336	411	526	686	737	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town Waldo county towns of Winterport town
Lewiston-Auburn, ME MSA	303	373	480	600	672	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	399	514	676	846	948	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	433	520	668	855	1049	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	303	373	496	621	695	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	303	355	455	580	667	
Cumberland	443	451	601	818	938	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	309	355	455	580	667	
Hancock	326	400	494	623	692	
Kennebec	315	393	473	592	667	
Knox	303	390	506	674	710	
Lincoln	394	438	498	693	818	
Oxford	303	355	455	580	667	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Penobscot	303	355	455	580	667	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town
Piscataquis	303	355	455	580	667	
Sagadahoc	426	488	601	800	987	
Somerset	317	362	455	580	684	
Waldo	303	355	455	580	667	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	303	355	455	580	667	
York	373	428	574	717	802	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	401	491	599	792	906	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	532	715	832	1100	1375	Columbia
Cumberland, MD-WV MSA	314	378	464	617	705	Allegany
Hagerstown, MD PMSA	313	377	463	615	703	Washington
Washington, DC-MD-VA	584	663	779	1060	1278	Calvert, Charles, Frederick, Montgomery, Prince George's

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A R Y L A N D continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Wilmington-Newark, DE-MD PMSA	409	541	630	856	1033	Cecil

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	350	377	472	619	703
Garrett	313	420	472	615	775
St. Mary's	478	567	654	911	1042
Talbot	414	438	585	732	959
Worcester	313	377	473	657	703

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Dorchester	313	405	472	615	703
Kent	317	390	520	650	784
Somerset	372	419	472	655	774
Wicomico	352	408	525	668	735

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	450	603	805	1008	1128	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town
Boston, MA-NH PMSA	573	645	808	1010	1186	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	420	554	679	846	963	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	303	426	552	711	773	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA	433	522	656	820	1010	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA	425	549	664	831	930	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA MSA	407	498	566	707	793	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA	327	464	573	718	890	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA PMSA	393	534	642	805	992	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	386	476	602	752	923	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT	455	551	689	859	963	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	426	585	779	974	1090	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	359	436	514	706	845	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	577	586	780	975	1093	
Franklin	387	480	614	768	927	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	391	532	710	945	1166	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	547	554	741	926	1038	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	692	926	1236	1545	1731	
Worcester	435	454	605	757	847	Athol town, Hardwick town, Hubbardston town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

M A S S A C H U S E T T S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
						New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	434	526	649	851	954	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	351	355	466	583	655	Berrien
Detroit, MI PMSA	340	463	559	699	784	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	328	374	467	598	654	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	368	430	525	658	735	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	277	372	471	589	661	Jackson
Kalamazoo-Battle Creek, MI MSA	327	394	497	622	695	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	349	410	529	691	799	Clinton, Eaton, Ingham
Saginaw-Bay City-Midland, MI MSA	321	354	471	589	661	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcona	273	310	394	511	584
Alpena	273	310	394	511	587
Arenac	273	310	394	511	584
Barry	273	336	448	561	628
Branch	315	323	397	542	584
Charlevoix	331	335	424	577	597
Chippewa	273	310	394	511	584
Crawford	298	310	402	549	584
Dickinson	273	335	413	516	584
Gladwin	273	310	394	511	584
Grand Traverse	361	386	515	645	722
Hillsdale	273	310	394	511	584
Huron	273	310	394	511	584
Iosco	273	310	394	511	617
Isabella	304	325	435	587	713
Keweenaw	273	310	394	511	584
Leelanau	369	400	467	611	766
Mackinac	273	310	394	511	584
Marquette	273	310	394	511	584
Mecosta	273	310	394	533	632
Missaukee	287	310	394	511	584
Montmorency	273	310	394	511	584
Oceana	291	310	394	511	584

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alger	273	310	394	511	584
Antrim	273	326	394	511	584
Baraga	273	310	394	511	584
Benzie	285	310	394	529	584
Cass	273	310	396	540	584
Cheboygan	287	310	394	511	598
Clare	283	310	394	511	584
Delta	273	310	394	511	584
Emmet	304	365	431	565	602
Gogebic	273	310	394	511	584
Gratiot	285	310	394	511	584
Houghton	273	310	394	511	584
Ionia	334	338	423	528	593
Iron	273	310	394	511	584
Kalkaska	273	310	395	513	649
Lake	276	310	394	511	584
Luce	273	310	394	511	584
Manistee	273	310	394	511	584
Mason	273	310	394	511	584
Menominee	273	310	394	511	584
Montcalm	277	310	394	511	584
Newaygo	313	336	395	511	584
Ogemaw	284	311	394	511	584

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ontonagon	273	310	394	511	584
Oscoda	273	310	394	511	584
Presque Isle	273	310	394	511	584
St. Joseph	273	317	394	513	584
Schoolcraft	273	310	394	511	584
Tuscola	296	323	431	538	602
Osceola	273	310	394	511	584
Otsego	280	338	426	592	687
Roscommon	301	310	394	511	584
Sanilac	273	320	394	513	584
Shiawassee	273	342	412	573	614
Wexford	273	314	408	534	632

M I N N E S O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	254	335	431	574	669	St. Louis
Fargo-Moorhead, ND-MN MSA	295	407	491	681	729	Clay
Grand Forks, ND-MN MSA	305	364	478	660	736	Polk
La Crosse, WI-MN MSA	263	340	433	578	701	Houston
Minneapolis-St. Paul, MN-WI MSA	369	474	605	820	928	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	292	408	533	739	829	Olmsted
St. Cloud, MN MSA	317	409	483	612	779	Benton, Stearns

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aitkin	253	328	438	548	613
Beltrami	250	320	428	561	599
Blue Earth	307	371	462	592	752
Carlton	250	304	386	484	553
Chippewa	250	304	386	484	553
Cook	296	304	398	543	565
Crow Wing	250	304	406	508	638
Douglas	250	304	386	484	553
Fillmore	250	304	386	484	553
Goodhue	250	322	430	548	602
Hubbard	255	304	386	484	553
Jackson	250	304	386	484	553
Kandiyohi	250	317	386	484	582
Koochiching	302	308	410	511	671
Lake	250	304	386	484	553
Le Sueur	250	304	386	484	596
Lyon	250	304	386	484	573
Mahnomen	250	304	386	484	553
Martin	250	304	386	484	553
Mille Lacs	266	304	387	539	635
Mower	250	304	386	484	553
Becker	250	359	403	504	565
Big Stone	250	304	386	484	553
Brown	250	323	386	484	553
Cass	250	304	386	484	553
Clearwater	250	304	386	484	553
Cottonwood	250	304	386	484	553
Dodge	250	304	386	484	553
Faribault	250	304	386	484	553
Freeborn	250	304	394	518	555
Grant	250	304	386	484	553
Itasca	320	324	422	528	591
Kanabec	250	314	408	509	571
Kittson	250	304	386	484	553
Lac qui Parle	250	304	386	484	553
Lake of the Woods	250	304	386	484	553
Lincoln	250	304	386	484	553
Mcleod	250	323	430	535	600
Marshall	250	304	386	484	553
Meeker	259	304	386	484	553
Morrison	278	304	386	484	553
Murray	250	304	386	484	553

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nicollet	313	335	447	591	626
Norman	250	304	386	484	553
Pennington	250	304	386	516	553
Pipestone	250	304	386	484	553
Red Lake	250	315	386	484	553
Renville	250	304	386	484	553
Rock	250	304	386	484	553
Sibley	250	304	386	484	553
Stevens	285	360	406	508	569
Todd	250	304	386	484	553
Wabasha	250	304	386	484	553
Waseca	277	304	386	484	553
Wilkin	250	304	386	484	553
Yellow Medicine	250	304	386	484	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nobles	250	304	386	484	553
Otter Tail	250	304	386	484	553
Pine	277	304	386	487	553
Pope	250	304	386	484	553
Redwood	250	304	386	484	553
Rice	262	358	477	596	668
Roseau	302	308	404	521	567
Steele	270	312	416	520	583
Swift	250	304	386	484	553
Traverse	250	304	386	484	553
Wadena	250	304	386	484	553
Watonwan	250	304	386	484	553
Winona	255	332	421	526	590

M I S S I S S I P P I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	329	386	445	619	731	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	243	299	365	492	586	Forrest, Lamar
Jackson, MS MSA	335	383	467	621	655	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	321	374	440	611	642	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	237	281	349	447	570
Amite	237	281	347	447	503
Benton	237	281	347	447	503
Calhoun	237	281	347	447	503
Chickasaw	237	281	347	447	503
Claiborne	237	281	347	447	503
Clay	237	281	347	447	508
Copiah	237	281	347	447	503
Franklin	240	281	347	447	503
Greene	237	281	347	447	503
Holmes	237	281	347	447	503
Issaquena	249	342	454	568	637
Jasper	237	281	347	447	503
Jefferson Davis	237	281	347	447	503
Kemper	239	281	347	447	503
Lauderdale	237	305	385	498	539

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcorn	237	281	347	447	503
Attala	237	281	347	447	503
Bolivar	269	281	362	452	517
Carroll	237	281	347	447	503
Choctaw	237	281	347	447	503
Clarke	237	281	347	447	503
Coahoma	275	281	371	466	521
Covington	237	281	347	447	503
George	237	281	347	447	503
Grenada	237	282	347	475	503
Humphreys	237	281	347	447	503
Itawamba	237	281	347	447	503
Jefferson	237	281	347	447	503
Jones	237	281	347	447	503
Lafayette	240	329	438	549	614
Lawrence	237	281	347	447	503

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Leake	237	281	347	447	503
Leflore	237	281	347	448	538
Lowndes	293	315	374	469	529
Marshall	237	281	347	447	511
Montgomery	237	281	347	447	503
Newton	237	281	347	447	503
Oktibbeha	291	302	370	514	607
Pearl River	249	281	347	449	503
Pike	241	281	347	447	503
Prentiss	240	281	347	447	503
Scott	237	281	347	447	503
Simpson	240	281	347	447	503
Stone	237	281	347	447	503
Tallahatchie	237	281	347	447	503
Tippah	237	281	347	447	503
Tunica	237	281	347	447	503
Walthall	237	281	347	447	503
Washington	256	304	407	526	578
Webster	239	281	347	447	503
Winston	237	281	347	447	503
Yazoo	241	281	347	447	503

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lee	297	319	385	481	539
Lincoln	237	281	347	447	503
Marion	237	281	347	447	503
Monroe	237	281	347	447	503
Neshoba	237	281	347	447	503
Noxubee	241	281	347	447	503
Panola	245	281	347	447	503
Perry	237	281	347	447	503
Pontotoc	237	281	347	447	503
Quitman	237	281	347	447	503
Sharkey	241	281	347	447	503
Smith	237	281	347	447	503
Sunflower	262	285	347	447	534
Tate	237	320	370	464	609
Tishomingo	237	281	347	447	503
Union	237	281	347	447	503
Warren	237	309	387	533	639
Wayne	237	281	347	447	503
Wilkinson	237	281	347	447	503
Yalobusha	239	281	347	447	503

M I S S O U R I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	245	344	448	623	735	Boone
Joplin, MO MSA	239	276	367	483	519	Jasper, Newton
Kansas City, MO-KS MSA	319	402	483	668	740	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	229	278	372	468	520	Andrew, Buchanan
St. Louis, MO-IL MSA	297	362	471	612	677	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	251	318	411	567	591	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	225	281	373	469	563
Audrain	240	260	334	451	521
Barton	225	260	334	434	497
Benton	254	260	344	434	497
Butler	225	260	334	434	497
Callaway	266	270	359	456	590
Atchison	225	260	334	434	497
Barry	225	268	334	434	497
Bates	225	260	334	434	507
Bollinger	225	260	334	434	497
Caldwell	225	262	351	440	497
Camden	296	299	400	555	652

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cape Girardeau	232	285	379	505	619
Carter	225	260	334	434	497
Chariton	225	260	334	434	497
Cole	225	297	396	528	554
Crawford	247	297	335	441	497
Dallas	225	260	334	434	497
Dekalb	233	260	334	439	497
Douglas	225	260	334	434	497
Gasconade	225	260	334	434	497
Grundy	225	260	334	434	497
Henry	257	262	348	437	573
Holt	225	260	334	434	497
Howell	225	260	334	434	497
Johnson	271	302	394	522	617
Laclede	225	260	334	437	497
Lewis	225	260	334	434	497
Livingston	225	260	335	434	497
Macon	225	260	334	434	497
Maries	225	260	334	434	497
Mercer	225	260	334	434	497
Mississippi	225	260	334	434	497
Monroe	225	260	334	434	497
Morgan	225	260	334	434	497
Nodaway	237	287	354	450	543
Osage	225	260	334	434	497
Pemiscot	225	260	334	434	497
Pettis	241	283	379	476	570
Pike	225	260	334	434	523
Pulaski	225	315	354	468	523
Ralls	225	260	334	434	497
Reynolds	225	260	334	434	497
St. Clair	225	260	334	434	497
St. Francois	237	299	379	475	623
Schuyler	225	260	334	434	497
Scott	271	273	364	492	566
Shelby	225	260	334	434	497
Stone	262	278	345	441	497
Taney	255	281	368	497	585
Vernon	225	260	334	444	497
Wayne	225	260	334	434	497

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Carroll	225	260	334	434	497
Cedar	225	260	334	434	497
Clark	225	260	334	434	497
Cooper	225	260	334	434	497
Dade	225	260	334	434	497
Daviess	225	260	334	434	497
Dent	225	260	334	434	497
Dunklin	225	260	334	434	497
Gentry	225	260	334	434	497
Harrison	225	260	334	434	497
Hickory	225	260	334	434	497
Howard	225	260	334	434	499
Iron	225	260	334	434	497
Knox	225	260	334	434	497
Lawrence	238	266	334	434	497
Linn	225	260	334	434	497
Mcdonald	225	260	334	434	497
Madison	225	260	334	434	497
Marion	225	260	334	434	497
Miller	247	297	334	437	516
Moniteau	225	260	334	434	497
Montgomery	225	260	334	434	497
New Madrid	225	260	334	434	497
Oregon	225	260	334	434	497
Ozark	225	260	334	434	497
Perry	262	266	355	472	497
Phelps	233	279	358	486	527
Polk	225	261	334	434	521
Putnam	225	260	334	434	497
Randolph	225	260	334	434	497
Ripley	225	260	334	434	497
Ste. Genevieve	225	268	344	441	558
Saline	225	260	342	434	497
Scotland	225	260	334	434	497
Shannon	225	260	334	434	497
Stoddard	225	260	334	434	497
Sullivan	225	260	334	434	497
Texas	225	260	334	434	497
Washington	264	318	357	446	500
Worth	225	260	334	434	497

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wright	225	260	334	434	497

M O N T A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	287	334	447	600	728	Yellowstone
Great Falls, MT MSA	287	332	438	570	679	Cascade

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	273	316	417	542	634
Blaine	273	316	417	542	634
Carbon	273	320	417	542	634
Chouteau	273	316	417	542	634
Daniels	273	336	417	542	634
Deer Lodge	273	316	417	542	634
Fergus	273	316	417	542	634
Gallatin	337	393	528	678	867
Glacier	273	316	417	542	634
Granite	273	316	417	542	634
Jefferson	288	316	417	542	634
Lake	298	316	417	542	634
Liberty	273	316	417	542	634
Mccone	273	334	417	542	634
Meagher	273	336	417	542	634
Missoula	299	351	467	602	765
Park	273	316	417	542	640
Phillips	273	316	417	542	634
Powder River	273	320	417	542	634
Prairie	273	316	417	542	634
Richland	273	342	417	542	634
Rosebud	273	316	417	542	634
Sheridan	281	316	417	542	634
Stillwater	279	316	417	542	634
Teton	273	316	417	542	634
Treasure	273	316	417	542	634
Wheatland	273	316	417	542	634

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	273	316	417	542	634
Broadwater	273	316	417	542	676
Carter	273	336	417	542	634
Custer	273	316	417	542	634
Dawson	273	316	417	542	634
Fallon	273	316	417	542	634
Flathead	273	317	424	590	695
Garfield	273	316	417	542	634
Golden Valley	273	335	417	542	634
Hill	282	316	417	542	634
Judith Basin	273	336	417	542	634
Lewis and Clark	305	357	474	660	781
Lincoln	298	316	417	542	634
Madison	279	316	417	542	634
Mineral	273	316	417	542	647
Musselshell	278	316	417	542	634
Petroleum	273	316	417	542	634
Pondera	273	335	417	542	634
Powell	278	316	417	542	634
Ravalli	273	316	417	542	634
Roosevelt	286	316	417	542	634
Sanders	273	316	417	542	634
Silver Bow	273	316	417	542	634
Sweet Grass	295	316	417	542	634
Toole	279	316	417	542	634
Valley	273	316	417	542	634
Wibaux	273	336	417	542	634

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N E B R A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	293	377	496	658	768	Lancaster
Omaha, NE-IA MSA	279	382	483	633	710	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	290	348	434	542	618	Dakota

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	224	301	398	499	598
Arthur	224	288	368	470	536
Blaine	224	288	368	470	536
Box Butte	243	288	368	471	556
Brown	224	288	368	470	547
Burt	224	288	368	470	536
Cedar	224	288	368	470	536
Cherry	224	303	368	473	557
Clay	224	288	368	470	536
Cuming	224	304	368	470	536
Dawes	239	288	368	474	559
Deuel	224	288	368	470	536
Dodge	224	288	380	500	536
Fillmore	224	288	368	470	536
Frontier	252	288	368	470	536
Gage	224	289	375	477	536
Garfield	224	288	368	470	536
Grant	224	288	368	470	536
Hall	224	295	393	517	580
Harlan	224	288	368	471	536
Hitchcock	224	288	368	470	536
Hooker	224	302	368	471	536
Jefferson	224	288	368	470	536
Kearney	224	288	368	470	559
Keya Paha	224	288	368	470	536
Knox	224	299	368	470	536
Logan	224	288	368	470	560
Mcpherson	224	288	368	471	536
Merrick	224	288	368	470	536
Nance	224	288	368	470	536
Nuckolls	224	288	368	470	536
Pawnee	224	288	368	474	536
Phelps	251	288	368	471	559
Platte	224	288	368	514	536
Red Willow	224	288	368	470	545

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Antelope	224	303	368	473	536
Banner	224	288	368	471	536
Boone	224	288	368	470	557
Boyd	224	301	368	470	536
Buffalo	228	330	414	517	624
Butler	224	288	368	470	536
Chase	224	304	368	470	561
Cheyenne	251	288	368	470	536
Colfax	244	300	368	470	536
Custer	251	290	368	470	556
Dawson	246	300	368	474	536
Dixon	250	288	368	470	536
Dundy	224	288	368	470	536
Franklin	224	288	368	475	536
Furnas	224	288	368	470	557
Garden	224	300	368	473	559
Gosper	224	288	368	470	543
Greeley	224	288	368	470	545
Hamilton	224	288	368	474	536
Hayes	224	302	368	470	557
Holt	224	288	368	470	536
Howard	224	288	368	470	536
Johnson	224	292	368	470	536
Keith	224	288	368	470	536
Kimball	224	288	368	471	559
Lincoln	230	300	368	470	536
Loup	224	288	368	470	558
Madison	230	302	400	517	631
Morrill	224	290	368	470	557
Nemaha	224	288	368	470	536
Otoe	224	288	368	470	560
Perkins	224	288	368	470	536
Pierce	224	288	368	470	536
Polk	224	288	368	470	536
Richardson	224	288	368	470	536

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rock	224	295	368	470	536
Saunders	224	288	368	470	536
Seward	278	288	376	470	536
Sherman	224	290	368	470	560
Stanton	224	288	368	470	536
Thomas	224	288	368	470	536
Valley	224	288	368	470	536
Webster	224	288	368	470	536
York	224	288	373	470	536

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Saline	224	301	368	470	536
Scotts Bluff	228	299	380	470	557
Sheridan	224	288	368	470	537
Sioux	224	288	368	470	559
Thayer	224	303	368	470	536
Thurston	224	288	368	470	536
Wayne	257	288	368	470	557
Wheeler	224	288	368	471	536

N E V A D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	437	519	618	860	1015	Clark, Nye
Reno, NV MSA	448	520	667	928	1097	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	422	428	572	789	937
Elko	384	438	584	771	959
Eureka	311	507	571	711	796
Lander	314	486	571	714	936
Lyon	372	445	571	795	937
Pershing	432	438	584	731	835
White Pine	312	429	571	771	810

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Douglas	379	553	692	961	1071
Esmeralda	406	507	571	712	799
Humboldt	457	479	578	758	811
Lincoln	312	468	571	715	800
Mineral	315	431	574	752	942
Storey	438	444	584	813	959
Carson City	328	449	599	833	984

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	573	645	808	1010	1186	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	433	522	656	820	1010	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	425	549	664	831	930	Hillsborough county towns of Pelham town
Manchester, NH PMSA	342	488	609	761	853	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	403	562	697	948	1128	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town

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N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	433	520	668	855	1049	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	407	470	618	834	1014	
Carroll	340	466	621	777	970	
Cheshire	421	500	640	833	987	
Coos	290	355	455	593	703	
Grafton	373	451	601	777	982	
Hillsborough	399	498	665	879	1057	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	419	501	625	801	895	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	435	510	682	946	1092	Deerfield town, Northwood town, Nottingham town
Strafford	385	523	698	875	980	Middleton town, New Durham town, Strafford town
Sullivan	406	412	534	702	749	

N E W J E R S E Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	459	521	695	870	994	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	604	735	863	1150	1418	Bergen, Passaic
Jersey City, NJ PMSA	552	651	758	963	1061	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	643	705	880	1196	1381	Hunterdon, Middlesex, Somerset

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W J E R S E Y continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Monmouth-Ocean, NJ PMSA	531	636	807	1072	1257	Monmouth, Ocean
Newark, NJ PMSA	511	652	786	990	1251	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	446	549	678	848	1063	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	438	610	743	1006	1215	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	442	538	649	810	909	Cumberland

N E W M E X I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	365	435	544	750	885	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	272	342	407	557	657	Dona Ana
Santa Fe, NM MSA	393	558	690	925	1048	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	259	303	377	506	571
Cibola	270	295	377	506	571
Curry	259	301	395	506	571
Eddy	266	294	377	506	588
Guadalupe	259	294	377	506	574
Hidalgo	259	294	377	506	571
Lincoln	294	301	398	524	655
Mckinley	259	326	414	517	578
Otero	259	294	377	525	571
Rio Arriba	303	310	382	506	571
San Juan	293	314	392	544	644
Sierra	259	294	377	506	571
Taos	355	360	480	600	789
Union	259	316	377	506	571

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	259	295	390	535	571
Colfax	259	301	377	506	571
Debaca	259	295	377	506	571
Grant	259	294	377	506	571
Harding	259	294	377	506	571
Lea	259	294	377	506	571
Luna	268	294	377	506	571
Mora	259	294	377	506	571
Quay	259	376	423	529	592
Roosevelt	259	294	377	506	571
San Miguel	288	294	389	506	571
Socorro	259	294	377	506	586
Torrance	285	307	377	506	571

N E W Y O R K

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	386	473	584	731	818	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	343	387	483	615	687	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	340	415	499	624	698	Erie, Niagara
Dutchess County, NY PMSA	513	651	804	1045	1222	Dutchess
Elmira, NY MSA	343	387	475	600	718	Chemung
Glens Falls, NY MSA	343	450	548	686	768	Warren, Washington
Jamestown, NY MSA	343	387	463	600	687	Chautauqua

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N E W Y O R K continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Nassau-Suffolk, NY PMSA	690	831	1014	1410	1511	Nassau, Suffolk
New York, NY PMSA	645	719	817	1022	1144	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	620	807	983	1280	1526	Westchester
Newburgh, NY-PA PMSA	505	657	803	1019	1163	Orange
Rochester, NY MSA	372	483	589	754	824	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	370	446	552	705	783	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	343	387	474	600	687	Herkimer, Oneida

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany	338	381	456	591	676	Cattaraugus	338	381	456	591	676
Chenango	360	381	456	591	676	Clinton	338	381	492	615	689
Columbia	423	444	570	747	799	Cortland	338	404	507	634	749
Delaware	338	381	456	591	726	Essex	338	386	483	605	676
Franklin	338	381	456	591	676	Fulton	338	381	456	591	676
Greene	338	438	526	680	828	Hamilton	338	407	468	591	676
Jefferson	364	430	506	634	708	Lewis	338	381	456	591	676
Otsego	338	400	460	595	756	St. Lawrence	338	381	456	591	676
Schuyler	366	391	463	645	760	Seneca	361	389	469	606	676
Steuben	350	398	456	598	676	Sullivan	438	492	600	828	840
Tompkins	441	476	611	852	1005	Ulster	416	577	695	904	1140
Wyoming	338	381	456	591	676	Yates	338	381	456	591	676

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	284	344	448	583	629	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	403	454	511	674	807	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	348	394	442	611	727	Cumberland
Goldsboro, NC MSA	284	327	398	512	598	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	357	407	485	669	680	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	343	347	451	606	742	Pitt
Hickory-Morganton, NC MSA	358	390	453	570	678	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	323	378	426	592	700	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	407	457	542	756	887	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	420	510	599	803	947	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	303	327	398	527	581	Edgecombe, Nash
Wilmington, NC MSA	369	406	497	680	811	Brunswick, New Hanover

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	279	327	391	503	596
Ashe	279	322	391	503	571
Beaufort	279	322	391	503	571
Bladen	279	322	391	503	571
Carteret	316	346	422	586	652
Cherokee	279	322	391	503	571
Clay	279	322	391	503	571
Columbus	279	322	391	503	571
Dare	290	459	529	724	740
Gates	279	322	391	503	571
Granville	295	322	391	518	585
Halifax	279	322	391	503	571
Haywood	283	322	391	525	571
Hertford	279	322	391	503	571
Hyde	279	322	391	503	571
Jackson	279	322	391	547	715
Lee	279	356	422	547	592
Mcdowell	279	340	408	558	660
Martin	279	322	391	503	571
Montgomery	279	322	391	503	571
Northampton	279	322	391	503	571
Pasquotank	322	344	429	596	602
Perquimans	279	322	391	503	571
Polk	279	353	396	503	571
Robeson	279	329	391	503	571
Rutherford	282	322	391	503	571
Scotland	279	322	391	503	571
Surry	279	322	391	503	571
Transylvania	309	330	418	555	593
Vance	296	335	391	503	571
Washington	279	322	391	503	571
Wilkes	317	357	402	557	625
Yancey	279	328	391	503	589

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	279	322	391	503	571
Avery	311	350	427	535	598
Bertie	279	322	391	503	571
Camden	279	356	475	594	667
Caswell	279	322	391	503	571
Chowan	279	322	391	503	571
Cleveland	279	328	391	518	571
Craven	279	348	420	550	588
Duplin	279	322	391	503	571
Graham	279	322	391	503	571
Greene	279	322	391	503	571
Harnett	279	322	391	505	571
Henderson	324	334	413	550	634
Hoke	279	322	391	503	571
Iredell	336	345	455	568	637
Jones	279	322	391	503	571
Lenoir	279	322	391	503	571
Macon	279	334	391	503	571
Mitchell	279	365	419	572	598
Moore	279	337	401	549	658
Pamlico	279	322	391	503	571
Pender	279	338	391	503	616
Person	279	322	419	547	640
Richmond	279	322	391	503	571
Rockingham	279	322	391	503	571
Sampson	279	322	391	503	571
Stanly	279	322	396	535	571
Swain	279	322	391	503	571
Tyrrell	279	322	391	503	571
Warren	279	322	391	503	571
Watauga	364	437	553	752	906
Wilson	292	322	395	503	571

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

NORTH DAKOTA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	301	337	449	625	738	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	295	407	491	681	729	Cass
Grand Forks, ND-MN MSA	305	364	478	660	736	Grand Forks

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	211	263	341	443	517
Benson	239	263	341	443	517
Bottineau	211	263	341	443	517
Burke	229	263	341	443	517
Dickey	229	263	341	443	517
Dunn	211	263	341	443	517
Emmons	211	263	341	443	517
Golden Valley	211	270	361	450	517
Griggs	211	263	341	443	517
Kidder	211	263	341	443	517
Logan	211	263	341	443	517
Mcintosh	211	263	341	443	517
Mclean	223	263	341	443	517
Mountrail	233	263	341	443	517
Oliver	211	263	341	443	517
Pierce	211	263	341	457	517
Ransom	214	263	341	443	517
Richland	221	263	348	443	517
Sargent	211	263	341	443	517
Sioux	211	263	341	443	517
Stark	211	263	341	443	517
Stutsman	253	263	345	481	566
Traill	221	281	341	443	517
Ward	211	289	386	522	622
Williams	211	263	341	443	517

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barnes	211	265	353	461	517
Billings	229	263	341	443	517
Bowman	211	263	341	443	517
Cavalier	211	271	362	451	557
Divide	211	263	341	443	517
Eddy	211	263	341	443	517
Foster	211	263	343	443	517
Grant	211	263	341	443	517
Hettinger	211	263	341	443	517
Lamoure	229	263	341	443	517
Mchenry	211	263	341	443	517
Mckenzie	211	263	341	443	517
Mercer	211	263	341	443	517
Nelson	211	263	341	443	517
Pembina	211	263	341	449	535
Ramsey	216	289	386	484	632
Renville	244	263	341	446	527
Rolette	228	290	351	443	517
Sheridan	211	263	341	443	517
Slope	211	263	341	443	517
Steele	211	263	341	443	517
Towner	241	270	361	450	592
Walsh	280	300	372	466	521
Wells	224	263	341	443	517

OHIO

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	326	397	509	636	713	Portage, Summit
Brown County, OH	268	315	395	510	563	Brown
Canton-Massillon, OH MSA	266	346	443	554	621	Carroll, Stark
Cincinnati, OH-KY-IN	289	372	498	667	720	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	327	412	510	648	731	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	318	377	483	614	706	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O H I O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dayton-Springfield, OH MSA	329	368	470	606	681	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	291	414	531	664	744	Butler
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Lawrence
Lima, OH MSA	266	319	420	535	588	Allen, Auglaize
Mansfield, OH MSA	266	319	406	507	568	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	287	342	392	508	523	Washington
Steubenville-Weirton, OH-WV MSA	266	314	393	502	560	Jefferson
Toledo, OH MSA	333	405	495	638	692	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	292	318	393	502	560	Belmont
Youngstown-Warren, OH MSA	279	329	411	518	589	Columbiana, Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	262	310	387	495	553
Athens	309	350	412	539	663
Clinton	262	336	404	562	567
Darke	288	310	390	495	553
Erie	262	349	436	588	713
Gallia	262	310	387	495	553
Hancock	332	336	425	543	594
Harrison	262	310	387	495	553
Highland	262	310	387	495	553
Holmes	262	310	387	495	553
Jackson	262	310	387	495	553
Logan	307	311	402	541	563
Meigs	262	310	387	495	553
Monroe	262	310	387	495	553
Morrow	262	310	387	495	553
Noble	262	310	387	495	561
Paulding	262	310	387	495	553
Pike	262	310	387	495	553
Putnam	272	310	387	495	553
Sandusky	262	340	436	549	608
Seneca	263	310	387	499	553
Tuscarawas	262	310	406	508	569
Van Wert	262	314	387	495	553
Wayne	262	347	426	541	596
Wyandot	262	310	387	495	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	262	310	409	510	572
Champaign	262	319	415	518	581
Coshocton	262	310	387	495	553
Defiance	274	310	410	516	574
Fayette	285	310	387	495	553
Guernsey	262	310	387	495	553
Hardin	262	310	387	495	553
Henry	283	313	391	504	574
Hocking	262	310	387	495	553
Huron	303	330	412	543	578
Knox	287	315	404	522	578
Marion	262	310	387	495	553
Mercer	262	310	387	495	569
Morgan	262	315	387	495	553
Muskingum	262	310	387	495	553
Ottawa	262	387	446	606	647
Perry	262	310	387	495	553
Preble	262	310	387	495	553
Ross	303	316	387	495	553
Scioto	262	310	387	495	553
Shelby	262	319	426	532	596
Union	262	363	478	598	693
Vinton	262	310	387	495	553
Williams	279	310	387	495	553

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

OKLAHOMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	276	280	371	517	590	Garfield
Fort Smith, AR-OK MSA	282	286	376	504	528	Sequoyah
Lawton, OK MSA	341	343	437	607	664	Comanche
Oklahoma City, OK MSA	293	319	414	577	645	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	309	370	484	675	796	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	237	272	339	451	518
Atoka	237	272	339	451	518
Beckham	241	272	339	451	518
Bryan	237	272	339	451	518
Carter	237	274	342	476	518
Choctaw	237	272	339	451	518
Coal	237	272	339	451	518
Craig	237	272	339	463	547
Delaware	237	272	339	451	527
Ellis	237	272	339	451	518
Grady	259	272	351	478	576
Greer	237	272	339	451	518
Harper	237	272	339	451	518
Hughes	237	272	339	451	518
Jefferson	237	272	339	451	518
Kay	262	278	365	509	596
Kiowa	237	272	339	451	518
Le Flore	237	272	339	451	518
Love	237	272	343	451	518
Mcintosh	237	272	339	451	518
Marshall	237	272	339	451	518
Murray	237	272	339	451	518
Noble	237	272	339	451	518
Okfuskee	237	272	339	451	518
Ottawa	255	272	339	451	518
Payne	274	323	413	571	640
Pontotoc	237	272	339	451	518
Roger Mills	237	272	339	451	518
Stephens	241	272	339	451	538
Tillman	237	272	339	451	518
Washita	237	272	339	451	518
Woodward	237	272	339	451	518

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	237	272	339	451	518
Beaver	237	276	339	451	518
Blaine	237	272	339	451	518
Caddo	237	272	339	451	518
Cherokee	249	281	339	451	525
Cimarron	237	272	339	451	518
Cotton	237	272	339	451	518
Custer	237	272	347	483	558
Dewey	237	272	339	451	518
Garvin	237	272	339	451	522
Grant	237	272	339	451	518
Harmon	237	272	339	451	518
Haskell	237	272	339	451	518
Jackson	237	307	375	492	555
Johnston	237	272	339	451	518
Kingfisher	237	280	346	454	518
Latimer	237	272	339	451	518
Lincoln	254	272	339	451	518
Mccurtain	237	272	339	451	518
Major	237	285	339	471	518
Mayes	237	276	367	463	518
Muskogee	256	289	339	469	518
Nowata	237	272	339	451	518
Okmulgee	241	272	339	451	518
Pawnee	267	272	351	452	518
Pittsburg	237	272	339	451	518
Pushmataha	237	272	339	451	518
Seminole	237	272	339	451	518
Texas	237	282	339	452	518
Washington	237	325	396	525	614
Woods	237	272	339	451	518

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

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O R E G O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	318	436	569	794	918	Lane
Medford-Ashland, OR MSA	327	429	572	796	888	Jackson
Portland-Vancouver, OR-WA PMSA	387	476	587	817	887	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	357	420	538	741	777	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	294	348	452	622	693
Clatsop	294	348	456	622	698
Crook	294	348	452	622	693
Deschutes	363	418	559	778	901
Gilliam	294	371	452	622	693
Harney	294	348	452	622	693
Jefferson	294	348	452	622	693
Klamath	294	348	452	622	736
Lincoln	357	362	483	672	730
Malheur	294	348	452	622	693
Sherman	294	348	452	622	693
Umatilla	294	348	452	622	693
Wallowa	294	348	452	622	693
Wheeler	294	348	452	622	693

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	310	402	510	768	815
Coos	294	359	476	664	693
Curry	294	400	531	679	836
Douglas	294	348	452	622	741
Grant	294	348	452	622	693
Hood River	324	364	496	644	761
Josephine	294	357	459	622	725
Lake	294	348	452	622	693
Linn	294	348	452	622	693
Morrow	294	348	452	622	693
Tillamook	294	348	452	622	693
Union	294	348	452	622	693
Wasco	358	443	497	676	759

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	390	528	629	819	920	Carbon, Lehigh, Northampton
Altoona, PA MSA	271	342	412	535	599	Blair
Erie, PA MSA	270	351	414	535	599	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	330	422	541	683	759	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	270	342	412	535	599	Cambria, Somerset
Lancaster, PA MSA	354	435	542	707	761	Lancaster
Newburgh, NY-PA PMSA	505	657	803	1019	1163	Pike
Philadelphia, PA-NJ PMSA	446	549	678	848	1063	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	315	387	467	585	653	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	281	414	511	639	721	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	270	377	451	563	681	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	295	342	412	535	599	Mercer
State College, PA MSA	388	474	587	769	823	Centre
Williamsport, PA MSA	270	344	414	535	599	Lycoming
York, PA MSA	300	412	511	638	714	York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

PENNSYLVANIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	269	361	480	621	787
Bedford	269	341	410	534	597
Cameron	269	341	410	534	597
Clearfield	269	341	410	534	597
Crawford	269	341	410	534	597
Forest	269	341	410	534	597
Fulton	269	341	410	534	597
Huntingdon	269	341	410	534	597
Jefferson	269	341	410	534	597
Lawrence	269	341	410	534	597
Mifflin	298	341	410	534	597
Montour	318	341	429	597	705
Potter	269	341	410	534	597
Snyder	324	341	411	534	597
Susquehanna	322	341	410	534	633
Union	325	430	538	673	752
Warren	269	341	410	534	597

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Armstrong	273	360	410	534	672
Bradford	269	341	417	544	597
Clarion	269	341	410	534	597
Clinton	269	341	410	534	597
Elk	269	341	410	534	597
Franklin	269	341	415	571	597
Greene	269	341	410	534	597
Indiana	308	343	410	534	597
Juniata	269	341	410	534	597
Mc Kean	269	343	410	534	597
Monroe	429	512	632	865	966
Northumberland	284	359	438	583	648
Schuylkill	269	341	425	534	597
Sullivan	269	341	410	534	597
Tioga	269	341	410	534	597
Venango	269	341	410	534	597
Wayne	270	417	491	625	803

RHODE ISLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	476	575	700	877	1002	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA PMSA	393	534	642	805	992	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

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R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	526	613	787	984	1101	Middletown town, Newport city, Portsmouth town
Washington	622	699	786	1014	1117	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	331	396	466	634	750	Aiken, Edgefield
Charleston-North Charleston, SC MSA	372	431	495	658	767	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	403	454	511	674	807	York
Columbia, SC MSA	399	439	505	667	767	Lexington, Richland
Florence, SC MSA	302	336	436	545	610	Florence
Greenville-Spartanburg-Anderson, SC MSA	328	397	449	565	664	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	391	398	509	637	714	Horry
Sumter, SC MSA	318	353	402	550	652	Sumter

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Abbeville	274	320	389	499	571	Allendale	274	320	389	499	571
Bamberg	274	320	389	499	571	Barnwell	289	320	391	499	571
Beaufort	392	481	554	691	774	Calhoun	274	320	389	499	571
Chester	274	320	389	499	571	Chesterfield	274	320	389	499	571
Clarendon	274	320	389	499	571	Colleton	274	320	389	499	571
Darlington	274	320	389	499	571	Dillon	274	320	389	499	571
Fairfield	274	368	419	523	585	Georgetown	274	348	392	499	595
Greenwood	275	320	389	499	571	Hampton	274	320	389	499	571
Jasper	274	320	389	499	571	Kershaw	274	320	389	499	571
Lancaster	288	321	389	499	571	Laurens	274	320	389	499	571
Lee	274	320	389	499	571	Mccormick	274	320	389	499	609
Marion	274	320	389	499	571	Marlboro	274	320	389	499	571
Newberry	274	320	389	499	571	Oconee	274	320	389	499	571
Orangeburg	274	320	389	499	571	Saluda	274	320	389	499	571
Union	274	320	389	499	571	Williamsburg	274	320	389	499	571

S O U T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	311	370	493	670	810	Pennington
Sioux Falls, SD MSA	301	416	527	667	766	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora	234	312	388	514	595
Bennett	234	310	388	514	595
Brookings	251	396	439	593	700
Brule	234	310	388	514	595
Butte	268	367	488	637	752
Charles Mix	234	310	388	514	595
Clay	234	310	388	514	638
Corson	234	310	388	514	595
Davison	245	310	388	521	595
Deuel	234	310	388	514	595
Douglas	260	310	388	514	595
Fall River	265	310	388	514	595
Grant	234	310	388	514	595
Haakon	234	317	388	514	595
Hand	234	310	388	514	595
Harding	234	317	388	514	595
Hutchinson	234	310	388	514	595
Jackson	234	314	388	514	595
Jones	234	310	388	514	595
Lake	234	314	388	514	595
Lyman	234	310	388	514	595
Mcpherson	234	310	388	514	595
Meade	328	370	493	646	763
Miner	234	314	388	514	595
Perkins	234	310	388	514	595
Roberts	234	310	388	514	595
Shannon	234	314	388	514	595
Stanley	234	317	388	514	595
Todd	259	310	388	514	595
Turner	234	310	388	514	595
Walworth	234	317	388	514	595
Ziebach	234	310	388	514	595

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beadle	234	310	388	514	595
Bon Homme	260	310	388	514	595
Brown	234	310	388	514	595
Buffalo	234	310	388	514	601
Campbell	234	310	388	514	595
Clark	234	310	388	514	595
Codington	234	310	388	514	595
Custer	234	310	388	514	595
Day	261	310	388	514	595
Dewey	234	310	388	514	595
Edmunds	234	310	388	514	595
Faulk	234	310	410	514	595
Gregory	235	310	388	514	595
Hamlin	234	310	388	514	595
Hanson	237	324	433	543	608
Hughes	258	310	410	540	638
Hyde	234	315	388	514	595
Jerauld	234	312	388	514	595
Kingsbury	256	310	388	514	595
Lawrence	266	385	485	664	751
Mccook	234	310	388	514	595
Marshall	275	310	388	514	595
Mellette	278	314	388	514	595
Moody	234	310	388	514	595
Potter	234	310	388	514	595
Sanborn	234	310	388	514	595
Spink	255	310	395	514	595
Sully	234	310	388	514	595
Tripp	234	310	388	514	595
Union	246	310	388	514	595
Yankton	234	310	388	514	595

T E N N E S S E E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	318	373	447	577	658	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	313	351	411	561	576	Montgomery
Jackson, TN MSA	243	319	428	593	597	Madison

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	281	325	415	539	612	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	281	347	434	579	696	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	321	374	440	611	642	Fayette, Shelby, Tipton
Nashville, TN MSA	357	426	526	717	806	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford	227	293	357	450	500	Benton	245	279	337	442	495
Bledsoe	227	266	337	442	495	Bradley	227	287	383	518	629
Campbell	229	266	337	442	495	Cannon	227	266	337	442	495
Carroll	227	276	337	442	495	Chester	227	266	337	442	495
Claiborne	227	266	337	442	495	Clay	231	266	337	442	495
Cocke	227	266	337	442	495	Coffee	227	317	356	495	564
Crockett	227	266	337	442	495	Cumberland	240	266	348	486	495
Decatur	227	266	337	442	495	Dekalb	227	266	337	442	495
Dyer	284	288	384	480	598	Fentress	227	266	337	442	495
Franklin	238	266	337	463	544	Gibson	227	266	337	442	495
Giles	227	290	358	448	501	Grainger	231	266	337	442	495
Greene	227	266	337	442	495	Grundy	227	266	337	442	495
Hamblen	227	267	350	467	495	Hancock	227	266	337	442	495
Hardeman	227	266	337	442	495	Hardin	227	266	337	442	495
Haywood	239	277	370	463	518	Henderson	227	266	337	442	495
Henry	227	266	337	442	495	Hickman	268	272	361	476	505
Houston	227	266	337	442	495	Humphreys	227	277	337	442	495
Jackson	227	266	337	442	495	Jefferson	248	266	345	442	549
Johnson	227	266	337	442	495	Lake	227	266	337	442	495
Lauderdale	227	266	339	442	495	Lawrence	227	266	337	442	495
Lewis	227	266	337	442	495	Lincoln	227	266	340	442	495
Mcminn	227	266	337	444	495	Mcnairy	227	266	337	442	495
Macon	227	266	337	442	495	Marshall	267	292	380	480	533
Maury	326	333	442	555	619	Meigs	227	266	337	442	495
Monroe	227	266	337	442	495	Moore	227	266	337	442	495
Morgan	227	266	337	442	495	Obion	263	267	342	453	495
Overton	227	266	337	442	495	Perry	227	268	337	442	495
Pickett	227	266	337	442	495	Polk	227	266	337	442	495
Putnam	276	279	358	492	531	Rhea	227	284	337	447	495
Roane	245	266	337	452	544	Scott	227	266	337	442	495
Sequatchie	227	266	337	442	495	Smith	227	266	337	442	495
Stewart	227	266	337	442	495	Trousdale	227	279	371	466	610
Van Buren	227	266	337	442	495	Warren	253	266	344	442	495

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wayne	227	266	337	442	495
White	231	266	337	442	495
Weakley	246	266	337	442	495

T E X A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	273	304	393	530	644	Taylor
Amarillo, TX MSA	263	332	413	577	680	Potter, Randall
Austin-San Marcos, TX MSA	405	489	652	905	1069	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	300	362	442	585	620	Hardin, Jefferson, Orange
Brazoria, TX PMSA	419	467	584	814	958	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	315	397	496	621	774	Cameron
Bryan-College Station, TX MSA	351	408	516	719	847	Brazos
Corpus Christi, TX MSA	328	403	515	700	828	Nueces, San Patricio
Dallas, TX	397	456	586	811	959	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	370	414	491	681	805	El Paso
Fort Worth-Arlington, TX PMSA	380	413	537	747	882	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	412	423	531	738	870	Galveston
Henderson County, TX	272	323	395	540	648	Henderson
Houston, TX PMSA	390	437	567	788	929	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	369	384	486	677	743	Bell, Coryell
Laredo, TX MSA	299	344	452	565	635	Webb
Longview-Marshall, TX MSA	296	334	410	558	610	Gregg, Harrison, Upshur
Lubbock, TX MSA	283	358	466	648	718	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	263	359	411	514	577	Hidalgo
Odessa-Midland, TX MSA	283	327	437	608	704	Ector, Midland
San Angelo, TX MSA	263	336	408	559	660	Tom Green
San Antonio, TX MSA	346	399	517	719	849	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	263	359	434	554	663	Grayson
Texarkana, TX-Texarkana, AR MSA	286	350	427	563	597	Bowie
Tyler, TX MSA	329	363	444	616	651	Smith
Victoria, TX MSA	325	329	415	578	651	Victoria
Waco, TX MSA	286	351	462	615	647	Mclennan
Wichita Falls, TX MSA	315	353	425	566	667	Archer, Wichita

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	316	356	400	556	562
Angelina	288	333	376	522	615
Armstrong	263	304	398	499	562
Austin	263	304	367	503	562
Bandera	283	304	367	499	562
Bee	263	304	367	492	562
Borden	263	304	367	492	562
Brewster	263	304	367	496	594
Brooks	263	304	367	492	562
Burleson	263	304	386	522	635
Calhoun	282	304	367	508	601
Camp	356	361	451	565	631
Cass	263	304	367	492	562
Cherokee	294	305	374	492	562
Clay	263	310	367	492	573
Coke	263	304	367	492	562
Collingsworth	263	304	367	492	562
Comanche	263	304	367	492	562
Cooke	286	304	387	525	582
Crane	263	304	367	492	562
Crosby	263	304	367	492	562
Dallam	263	304	367	492	562
Deaf Smith	263	304	367	492	571
Dewitt	263	304	367	492	562
Dimmit	263	304	367	492	562
Duval	263	304	367	492	562
Edwards	263	304	367	492	562
Falls	263	304	367	492	562
Fayette	263	304	367	492	562
Floyd	263	304	367	492	562
Franklin	263	304	367	508	562
Frio	263	304	367	492	562
Garza	263	304	367	492	562
Glasscock	263	304	367	492	562
Gonzales	263	304	367	492	562
Grimes	263	304	367	496	585
Hall	263	304	367	492	562
Hansford	263	304	367	492	576
Hartley	263	304	367	492	562
Hemphill	263	339	380	529	562

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	263	304	367	492	562
Aransas	263	324	432	601	605
Atascosa	263	304	367	492	562
Bailey	263	304	367	492	562
Baylor	263	304	367	492	562
Blanco	263	304	389	541	570
Bosque	263	304	367	492	562
Briscoe	263	304	367	492	562
Brown	263	304	368	494	604
Burnet	263	304	375	521	609
Callahan	263	304	367	492	562
Carson	263	304	367	492	562
Castro	265	304	367	492	562
Childress	263	304	367	492	562
Cochran	263	304	367	492	562
Coleman	263	304	367	492	562
Colorado	263	304	367	492	562
Concho	263	304	367	492	562
Cottle	263	304	367	492	562
Crockett	263	304	367	492	562
Culberson	263	304	367	492	562
Dawson	263	304	367	492	562
Delta	263	315	367	492	562
Dickens	263	304	367	492	562
Donley	263	304	367	492	562
Eastland	263	304	367	492	562
Erath	273	309	400	518	562
Fannin	267	304	367	494	562
Fisher	263	304	367	492	562
Foard	263	304	367	492	562
Freestone	263	304	367	492	562
Gaines	269	304	367	492	562
Gillespie	263	331	430	591	603
Goliad	263	304	367	492	562
Gray	289	304	391	492	580
Hale	263	304	367	492	562
Hamilton	263	304	367	492	562
Hardeman	263	304	367	492	562
Haskell	263	304	367	492	562
Hill	263	304	367	492	562

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	269	314	367	497	562
Houston	263	304	367	492	562
Hudspeth	317	358	400	502	659
Irion	263	304	367	492	562
Jackson	263	305	367	492	562
Jeff Davis	263	304	367	492	562
Jim Wells	263	304	367	492	569
Karnes	263	304	367	492	562
Kenedy	263	304	367	492	562
Kerr	263	341	426	593	699
King	263	304	367	492	562
Kleberg	320	331	404	565	665
Lamar	263	327	385	537	635
Lampasas	263	304	367	499	589
Lavaca	263	304	367	492	562
Leon	263	338	379	492	623
Lipscomb	263	304	367	492	562
Llano	263	339	451	566	742
Lynn	263	304	367	492	562
Mcmullen	263	304	367	492	562
Marion	263	304	367	492	582
Mason	263	304	367	492	562
Maverick	263	304	367	492	562
Menard	263	304	367	492	562
Mills	263	304	367	492	562
Montague	263	304	367	492	562
Morris	263	304	367	492	562
Nacogdoches	278	335	435	543	641
Newton	263	304	367	492	562
Ochiltree	263	304	367	492	562
Palo Pinto	263	304	367	492	584
Parmer	263	304	367	492	562
Polk	294	321	374	503	611
Rains	263	341	412	572	576
Real	263	304	367	492	562
Reeves	263	304	367	492	562
Roberts	263	307	367	492	562
Runnels	263	304	367	492	562
Sabine	263	304	367	492	562
San Jacinto	276	311	367	492	574

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	307	330	389	541	582
Howard	281	304	367	496	562
Hutchinson	263	304	380	529	625
Jack	263	304	367	492	562
Jasper	263	304	375	499	613
Jim Hogg	263	304	367	492	562
Jones	263	304	367	492	562
Kendall	263	385	432	601	710
Kent	263	304	367	492	562
Kimble	263	304	400	501	562
Kinney	263	304	367	492	562
Knox	263	304	367	492	562
Lamb	263	304	367	492	562
La Salle	263	304	367	492	562
Lee	298	335	377	526	590
Limestone	263	304	367	492	562
Live Oak	263	304	367	492	562
Loving	263	304	367	492	562
Mcculloch	271	304	367	492	562
Madison	263	313	367	492	578
Martin	263	304	367	492	562
Matagorda	304	332	412	572	576
Medina	263	304	367	492	562
Milam	263	304	367	492	562
Mitchell	263	304	367	492	562
Moore	263	309	367	492	571
Motley	263	304	367	492	562
Navarro	315	331	399	506	562
Nolan	271	304	367	492	562
Oldham	263	304	398	499	583
Panola	263	310	367	492	562
Pecos	263	304	367	496	585
Presidio	263	304	367	492	562
Reagan	335	341	453	569	745
Red River	263	339	380	492	562
Refugio	263	304	367	492	562
Robertson	263	348	390	492	562
Rusk	275	304	367	492	562
San Augustine	263	304	367	492	562
San Saba	263	304	367	492	562

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Schleicher	263	304	367	492	562
Shackelford	263	304	367	492	562
Sherman	263	304	367	492	562
Starr	263	304	367	492	562
Sterling	263	304	367	492	562
Sutton	263	304	367	492	562
Terrell	263	304	367	492	562
Throckmorton	263	304	367	492	562
Trinity	274	309	367	492	562
Upton	263	304	367	492	562
Val Verde	263	349	411	514	606
Walker	355	378	462	614	647
Washington	327	333	445	556	731
Wheeler	263	304	367	492	562
Willacy	263	304	367	492	562
Wise	263	307	369	515	562
Yoakum	263	346	426	532	699
Zapata	263	304	367	492	562

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Scurry	263	304	381	531	627
Shelby	263	304	367	492	562
Somervell	301	339	380	522	562
Stephens	263	304	367	492	562
Stonewall	263	304	367	492	562
Swisher	263	304	367	492	562
Terry	263	304	367	492	562
Titus	280	347	394	544	562
Tyler	263	304	392	492	645
Uvalde	263	304	367	492	562
Van Zandt	282	304	381	520	627
Ward	263	304	367	492	562
Wharton	263	304	367	492	562
Wilbarger	263	304	367	492	579
Winkler	263	304	367	492	562
Wood	263	304	380	529	625
Young	263	304	367	492	569
Zavala	263	304	367	492	562

U T A H

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	273	336	420	562	677	Kane
Provo-Orem, UT MSA	377	398	493	684	808	Utah
Salt Lake City-Ogden, UT MSA	328	380	482	670	786	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	273	336	420	562	677
Cache	273	336	420	562	677
Daggett	298	407	541	678	760
Emery	273	336	420	562	677
Grand	273	336	420	562	677
Juab	273	336	420	562	677
Morgan	273	336	420	562	677
Rich	273	336	420	562	677
Sanpete	273	336	420	562	677
Summit	405	499	624	841	1023
Uintah	273	336	420	562	677
Washington	337	415	551	736	902

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Box Elder	303	336	420	562	677
Carbon	294	336	420	562	677
Duchesne	273	336	420	562	677
Garfield	273	336	420	562	677
Iron	273	372	464	580	682
Millard	273	336	420	562	677
Piute	273	336	420	562	677
San Juan	273	336	420	562	677
Sevier	277	336	420	562	677
Tooele	273	349	420	562	677
Wasatch	273	349	420	562	677
Wayne	273	336	420	562	677

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V E R M O N T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	390	478	637	869	1047	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	369	447	520	724	812	
Bennington	344	432	557	708	824	
Caledonia	312	372	455	575	659	
Chittenden	319	517	582	808	952	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	306	366	455	575	659	
Franklin	328	370	455	579	665	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	306	366	455	575	659	Alburg town, Isle La Motte town, North Hero town
Lamoille	306	423	505	694	795	
Orange	306	401	493	651	730	
Orleans	306	366	455	575	659	
Rutland	343	447	545	684	765	
Washington	328	410	549	687	770	
Windham	368	427	567	719	792	
Windsor	395	446	558	715	849	

V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	387	457	585	778	873	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	290	407	528	724	740	Clarke
Culpeper County, VA	356	520	605	799	956	Culpeper
Danville, VA MSA	274	344	405	544	655	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	281	325	415	539	612	Scott, Washington, Bristol city
King George County, VA	351	465	523	727	732	King George
Lynchburg, VA MSA	326	358	413	544	655	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	407	457	542	756	887	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	409	463	538	749	884	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	276	344	447	573	715	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	283	387	516	676	845	Warren
Washington, DC-MD-VA	584	663	779	1060	1278	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	324	349	409	542	653	Alleghany	284	343	404	542	653
Amelia	273	343	404	542	653	Appomattox	273	343	404	542	653
Augusta	273	353	428	564	687	Bath	273	343	404	542	653
Bland	273	343	404	542	653	Brunswick	273	343	404	542	653
Buchanan	273	343	404	542	653	Buckingham	273	343	404	542	653
Caroline	386	391	522	694	731	Carroll	273	343	404	542	653
Charlotte	273	343	404	542	653	Craig	273	343	404	542	653
Cumberland	273	373	433	542	653	Dickenson	273	343	404	542	653
Essex	273	383	453	629	743	Floyd	273	343	404	542	653
Franklin	273	343	404	542	653	Frederick	369	426	513	703	842
Giles	273	343	404	542	653	Grayson	273	343	404	542	653
Greensville	273	353	404	542	653	Halifax	273	343	404	542	653
Henry	273	343	404	542	653	Highland	273	343	404	542	653
King and Queen	273	391	440	550	653	King William	273	373	419	542	653
Lancaster	340	382	431	575	700	Lee	273	343	404	542	653
Louisa	273	355	437	608	653	Lunenburg	273	343	404	542	653
Madison	274	407	457	573	750	Mecklenburg	273	343	404	542	653
Middlesex	273	345	404	542	653	Montgomery	281	368	432	601	710
Nelson	273	343	404	542	653	Northampton	273	343	404	542	653
Northumberland	273	343	404	542	653	Nottoway	273	343	404	542	653
Orange	302	412	550	765	897	Page	317	357	404	542	653
Patrick	273	343	404	542	653	Prince Edward	305	345	404	542	653
Pulaski	273	343	404	542	653	Rappahannock	277	448	503	699	824
Richmond	273	363	408	542	670	Rockbridge	273	343	404	542	653
Rockingham	273	377	478	655	767	Russell	273	343	404	542	653
Shenandoah	359	368	454	628	713	Smyth	273	343	404	542	653
Southampton	273	343	404	542	653	Surry	283	343	404	542	653
Sussex	273	343	404	542	653	Tazewell	273	343	404	542	653

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

020996

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	273	368	490	615	797
Wythe	285	343	404	542	653
Wise	273	343	404	542	653

W A S H I N G T O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	376	488	650	897	1065	Whatcom
Bremerton, WA PMSA	383	441	572	772	939	Kitsap
Olympia, WA PMSA	393	483	603	831	979	Thurston
Portland-Vancouver, OR-WA PMSA	387	476	587	817	887	Clark
Richland-Kennewick-Pasco, WA MSA	469	538	643	896	1052	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	440	535	678	942	1113	Island, King, Snohomish
Spokane, WA MSA	316	436	526	715	800	Spokane
Tacoma, WA PMSA	356	424	565	786	887	Pierce
Yakima, WA MSA	340	418	517	694	725	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	298	357	463	613	679
Chelan	298	357	463	613	679
Columbia	298	357	463	613	679
Douglas	348	368	463	613	679
Garfield	298	357	463	613	679
Grays Harbor	304	357	468	632	729
Kittitas	298	357	463	613	679
Lewis	298	357	463	613	679
Mason	339	420	516	678	729
Pacific	298	357	463	613	679
San Juan	368	503	670	883	1051
Skamania	298	357	463	613	679
Wahkiakum	298	357	463	613	679
Whitman	321	365	487	676	800
Asotin	298	357	463	613	679
Clallam	347	430	547	703	769
Cowlitz	335	374	482	669	679
Ferry	298	357	463	613	679
Grant	320	357	463	613	679
Jefferson	298	385	473	642	679
Klickitat	298	357	463	613	679
Lincoln	298	357	463	613	679
Okanogan	298	357	463	613	679
Pend Oreille	298	357	463	613	816
Skagit	406	497	585	731	818
Stevens	298	357	463	613	679
Walla Walla	298	357	463	621	734

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	348	370	441	551	617	Berkeley
Charleston, WV MSA	241	328	415	570	624	Kanawha, Putnam
Cumberland, MD-WV MSA	314	378	464	617	705	Mineral
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Cabell, Wayne
Jefferson County, WV	352	389	481	625	708	Jefferson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 52

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	287	342	392	508	523	Wood
Steubenville-Weirton, OH-WV MSA	266	314	393	502	560	Brooke, Hancock
Wheeling, WV-OH MSA	292	318	393	502	560	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	241	307	343	442	514
Braxton	241	295	343	442	514
Clay	241	295	343	442	514
Fayette	241	295	343	442	514
Grant	241	295	343	442	514
Hampshire	241	295	345	455	514
Harrison	266	327	377	471	565
Lewis	241	324	343	442	514
Logan	247	295	343	445	526
Marion	241	305	376	483	556
Mercer	241	295	343	442	514
Monongalia	304	336	411	565	669
Morgan	298	335	377	473	528
Pendleton	241	295	343	442	514
Pocahontas	241	295	343	442	514
Raleigh	250	295	343	442	518
Ritchie	241	295	343	442	514
Summers	241	295	343	442	514
Tucker	241	295	343	442	514
Upshur	241	295	345	442	514
Wetzel	274	295	370	463	585
Wyoming	241	295	343	442	514

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	241	295	343	442	514
Calhoun	241	295	343	442	514
Doddridge	250	295	343	442	514
Gilmer	266	295	343	442	514
Greenbrier	241	333	356	444	514
Hardy	241	295	343	442	514
Jackson	241	302	343	470	514
Lincoln	241	295	343	442	514
Mcdowell	241	295	343	442	514
Mason	241	295	343	442	528
Mingo	241	295	343	442	520
Monroe	241	295	343	442	514
Nicholas	241	295	343	442	514
Pleasants	249	295	343	442	527
Preston	241	310	343	442	514
Randolph	241	295	343	442	514
Roane	241	295	343	442	514
Taylor	296	320	349	442	514
Tyler	241	295	361	453	514
Webster	241	295	343	442	514
Wirt	241	295	343	442	514

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	297	366	464	586	675	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	259	335	431	574	669	Douglas
Eau Claire, WI MSA	320	348	457	587	662	Chippewa, Eau Claire
Green Bay, WI MSA	325	358	459	638	642	Brown
Janesville-Beloit, WI MSA	327	412	511	640	717	Rock
Kenosha, WI PMSA	339	420	517	710	798	Kenosha
La Crosse, WI-MN MSA	263	340	433	578	701	La Crosse
Madison, WI MSA	406	511	617	857	1011	Dane

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

W I S C O N S I N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	343	449	564	706	789	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	369	474	605	820	928	Pierce, St. Croix
Racine, WI PMSA	305	378	499	644	705	Racine
Sheboygan, WI MSA	284	365	446	557	690	Sheboygan
Wausau, WI MSA	347	360	450	613	680	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	259	302	385	492	554	Ashland	283	313	385	492	554
Barron	259	302	385	492	554	Bayfield	259	302	385	492	554
Buffalo	259	302	385	492	554	Burnett	259	302	385	492	554
Clark	259	302	385	492	554	Columbia	259	308	405	531	595
Crawford	259	302	385	492	554	Dodge	328	333	438	548	613
Door	259	321	399	512	622	Dunn	259	302	396	529	653
Florence	259	302	385	492	554	Fond du Lac	262	355	421	571	590
Forest	259	302	385	492	554	Grant	263	302	385	492	554
Green	264	302	385	518	554	Green Lake	259	302	385	492	554
Iowa	269	302	385	506	554	Iron	259	302	385	492	554
Jackson	259	302	385	492	554	Jefferson	259	344	447	577	630
Juneau	265	302	385	492	554	Kewaunee	259	302	385	492	554
Lafayette	264	302	385	492	554	Langlade	259	302	385	492	554
Lincoln	259	302	385	492	554	Manitowoc	262	302	385	492	554
Marinette	259	302	385	492	554	Marquette	259	302	385	492	554
Menominee	259	302	385	492	554	Monroe	259	302	385	513	554
Oconto	259	302	385	492	554	Oneida	259	303	385	496	593
Pepin	259	302	385	492	554	Polk	259	302	392	492	554
Portage	315	333	432	539	668	Price	259	302	385	492	554
Richland	259	302	385	492	554	Rusk	259	302	385	492	554
Sauk	303	313	418	521	585	Sawyer	259	302	385	492	554
Shawano	264	302	385	492	554	Taylor	259	302	385	492	554
Trempealeau	259	302	385	492	554	Vernon	259	302	385	492	554
Vilas	259	302	385	492	554	Walworth	271	380	495	644	722
Washburn	259	302	385	492	554	Waupaca	259	302	385	492	583
Waushara	259	302	385	492	554	Wood	282	322	400	501	562

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

W Y O M I N G

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	282	327	418	573	677	Natrona
Cheyenne, WY MSA	319	399	533	682	828	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	283	355	473	658	777
Campbell	291	310	397	529	624
Converse	268	310	397	527	606
Fremont	268	310	397	527	606
Hot Springs	268	310	397	527	606
Lincoln	268	310	397	527	606
Park	268	310	397	527	611
Sheridan	268	310	397	527	611
Sweetwater	280	310	397	529	624
Uinta	282	310	397	528	637
Weston	268	310	397	527	606

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	268	310	397	527	606
Carbon	268	310	397	527	606
Crook	268	310	397	527	606
Goshen	268	310	397	527	606
Johnson	268	310	397	527	606
Niobrara	268	310	397	527	606
Platte	268	310	397	527	606
Sublette	300	337	397	527	606
Teton	360	458	608	817	891
Washakie	268	310	397	527	606

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	655	787	932	1168	1314

P U E R T O R I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	225	274	325	404	455	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	308	373	438	551	616	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	246	296	350	440	489	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	232	282	335	416	468	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	298	364	429	536	601	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	310	378	446	557	625	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	208	257	300	378	421
Arroyo Municipio.....	208	257	300	378	421
Ciales Municipio.....	208	257	300	378	421
Culebra Municipio.....	208	257	300	378	421
Guayama Municipio.....	208	257	300	378	421
Jayuya Municipio.....	208	257	300	378	421
Lares Municipio.....	208	257	300	378	421
Maricao Municipio.....	208	257	300	378	421
Orocovis Municipio.....	208	257	300	378	421
Quebradillas Municipio..	208	257	300	378	421
Salinas Municipio.....	208	257	300	378	421
Santa Isabel Municipio..	208	257	300	378	421
Vieques Municipio.....	208	257	300	378	421

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	208	257	300	378	421
Barranquitas Municipio..	208	257	300	378	421
Coamo Municipio.....	208	257	300	378	421
Guanica Municipio.....	208	257	300	378	421
Isabela Municipio.....	208	257	300	378	421
Lajas Municipio.....	208	257	300	378	421
Las Marias Municipio....	208	257	300	378	421
Maunabo Municipio.....	208	257	300	378	421
Patillas Municipio.....	208	257	300	378	421
Rincon Municipio.....	208	257	300	378	421
San Sebastian Municipio.	208	257	300	378	421
Utuado Municipio.....	208	257	300	378	421

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Croix.....	456	554	652	815	913

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas....	585	711	836	1045	1170

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SCHEDULE D - FY 1996 40th PERCENTILE FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES

STATE/FMR AREA	SPACE RENT
CALIFORNIA	
Orange County, CA PMSA	$449
San Diego, CA MSA	388
Vallejo-Fairfield-Napa, CA PMSA	288
COLORADO	
Boulder-Longmont, CO PMSA	282
Denver, CO PMSA	268
DELAWARE	
Dover, DE MSA	163
Sussex County	115
MARYLAND	
Hagerstown, MD MSA	204
St. Marys County	251
MINNESOTA	
Minneapolis-St. Paul, MN-WI MSA	243
NEW YORK	
Dutchess, NY PMSA	329
Jamestown, NY MSA	172
Newburgh, NY MSA	309
Tompkins County, NY	196
OREGON	
Salem, OR PMSA	205
Benton County, OR	198
Linn County, OR	179
UTAH	
Provo-Orem, UT MSA	196
VERMONT	
Washington County	196
WEST VIRGINIA	
Berkeley County	132
Jefferson County	135
Morgan County	133

[FR Doc. 96–3763 Filed 2–20–96; 8:45 am]
BILLING CODE 4210–32–C

Federal Register

Wednesday
February 21, 1996

Part III

Department of Education

Intent To Award Grantback Funds to the South Dakota Department of Education and Cultural Affairs; Notice

DEPARTMENT OF EDUCATION

Intent to Repay to the South Dakota Department of Education and Cultural Affairs Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h (1988), the U.S. Secretary of Education (Secretary) intends to repay to the South Dakota Department of Education and Cultural Affairs (South Dakota), under a grantback arrangement, an amount equal to 75 percent of the principal amount of Vocational Education Basic Grant funds recovered by the U.S. Department of Education (Department) as a result of the final audit determination (ACN: 08–92255) in this matter. The Department's recovery of funds followed a settlement reached between the parties under which South Dakota refunded $50,000, in principal, to the Department in full resolution of the Department's final audit determination for fiscal year (FY) 1988. This notice describes South Dakota's plan for the use of the repaid vocational education funds and the terms and conditions under which the Secretary intends to make those funds available. This notice invites comments on the proposed grantback.

DATES: All comments must be received on or before March 22, 1996.

ADDRESSES: All written comments should be addressed to Dr. Marcel R. DuVall, Chief, Finance Branch, Division of Vocational-Technical Education, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue SW., (Mary E. Switzer Building, Room 4320, MS–7324), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Marcel R. DuVall. Telephone: (202) 205–9502. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

A. Background

Under a settlement agreement between the Department and South Dakota, the Department recovered $50,000 from South Dakota in full resolution of all claims arising from an audit of the South Dakota Department of Education and Cultural Affairs, covering FY 1988.

The Department's original claim of $150,000 was contained in a program determination letter (PDL) issued by the Assistant Secretary for Vocational and Adult Education on March 29, 1991. This claim arose from findings related to South Dakota's payment of interest charges on a State construction bond. The disputed funds were provided to South Dakota under the provisions of the Carl D. Perkins Vocational Education Act. 20 U.S.C. 2301 *et seq.* (1988) (Perkins I).

In particular, the Assistant Secretary determined in the March 29, 1991, PDL that South Dakota had not obtained prior approval for the use of these Federal funds for construction and that the $150,000 had been used by the State in such a way as to supplant non-Federal funds. In addition, the Assistant Secretary determined that the $150,000 in Federal funds had been used by the State to make interest payments on the construction bond debt, in violation of the prohibition against the use of Federal funds for making interest payments. *See* 34 CFR Part 74, Appendix C, Part II.D.7. (1988).

The parties entered into a settlement agreement on August 9, 1993, resolving fully all claims in this matter. In accordance with the terms of the settlement agreement, South Dakota repaid a principal amount of $50,000 to the Department on August 26, 1993.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), the authority applicable to this grantback request, provides that whenever the Secretary has recovered funds paid under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that—

(1) The practices or procedures of the recipient that resulted in the violation of law have been corrected, and the recipient is in all other respects in compliance with the requirements of that program;

(2) The recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) The use of the funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 459 of GEPA, South Dakota has applied for a grantback of $37,500, or 75 percent of the recovered funds. South Dakota has submitted a plan for use of the proposed grantback funds, consistent with the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Perkins II), 20 U.S.C. 2301 *et seq.*, which is currently in effect. South Dakota plans to implement a State mentoring program for new postsecondary vocational-technical education instructors, who are drawn, in most cases, directly from the fields of business and industry. These individuals possess vast technical knowledge but have a limited teacher education background.

Specifically, South Dakota plans to use the requested grantback funds totaling $37,500 to—

(1) Pay salary costs needed to provide one Statewide Coordinator, four Educational Mentor Specialists, four Division Mentor Specialists, four Support Mentor Specialists, and substitutes to assist with workshops and meetings ($12,900);

(2) Facilitate travel to a three-day training institute for Coordinators and Division and Educational mentors, and for meetings between Education and State Coordinators and three University Coordinators to establish curriculum and articulation agreements ($13,343);

(3) Contract services to provide eight, two-hour presentations by means of the Rural Development Telecommunication Network (RDTN). This system uses two-way audio and video communication to link a single instructional facility to off-site locations ($1,920); and

(4) Provide printing, postage, and materials needed to carry out the mentoring program objectives ($9,337).

Southeast Technical Institute in Sioux Falls, South Dakota, will serve as the lead institute for organizing and delivering the mentoring program to all statewide program areas. The basic curriculum entitled, ''Foundations in Postsecondary Instruction,'' will be delivered by the mentor specialists using two lecture hours and two lab hours per week for one semester and also via the RDTN to the four State-supported, postsecondary technical institute site locations that will be utilized for instruction. ''Foundations in

Postsecondary Instruction'' will include the following topics: Classroom Discipline, Philosophy of Vocational Education, Curriculum Development, Teaching Styles, Teaching Applications, Outside Resources, Testing/Portfolio, Evaluation Feedback, and Special Populations.

D. The Secretary's Determination

The Secretary has carefully reviewed the plan submitted by South Dakota and other relevant documentation. Based upon that review, the Secretary has determined that the conditions under section 459 of GEPA have been met.

This determination is based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action at a later date. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the South Dakota Department of Education and Cultural Affairs under a grantback arrangement. The grantback award will be in the amount of $37,500, which is 75 percent—the maximum percentage authorized by the statute—of the principal amount of Vocational Education Basic Grant funds recovered by the Department as a result of the final audit determination and the settlement in this matter.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

South Dakota agrees to comply with the following terms and conditions under which payment under a grantback arrangement will be made:

(1) South Dakota will expend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that was submitted and any amendments in that plan that are approved in advance of the grantback by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance of the grantback by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1996, in accordance with section 459(c) of GEPA and South Dakota's plan.

(3) South Dakota will, no later than January 1, 1997, submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget; and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained to document the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.048, Basic State Grants for Vocational Education)

Dated: February 13, 1996.

Patricia W. McNeil,

Acting Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 96–3772 Filed 2–20–96; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Wednesday
February 21, 1996

Part IV

Department of Education

Office of Special Education and Rehabilitative Services, Proposed Priorities; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Notice of Proposed Priorities

SUMMARY: The Secretary proposes priorities for three 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 March 22, 1996 for the Training Personnel for the Education of Individuals with Disabilities Program (CFDA 84.029) and the Program for Children and Youth with Serious Emotional Disturbance (CFDA 84.237); and April 22, 1996 for the Research in the Education of Individuals with Disabilities Program (CFDA 84.023).

ADDRESSES: All comments concerning proposed priorities should be addressed to: Linda Glidewell, U.S. Department of Education, 600 Independence Avenue SW., Room 3524, Switzer Building, Washington, D.C. 20202–2641.

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 four proposed priorities under three programs authorized by the Individuals with Disabilities Education Act, as follows: Research in Education of Individuals with Disabilities Program (one proposed priority); Training Personnel for the Education of Individuals with Disabilities 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 this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Research Institute to Accelerate Learning for Children With Disabilities With Curricular and Instructional Interventions

Background

The consequences of failing to learn are serious. Lack of learning in one domain reduces an individual's capacity to benefit from educational experience. Failure establishes a self-perpetuating cycle and negatively affects the individual's disposition toward lifelong learning, employment, and contribution to society. Most children with disabilities face challenges to learning. These challenges are amplified as calls are made for higher standards to be achieved by all students, including children with disabilities, and as more children with disabilities are educated in general education classrooms.

Evidence from the National Longitudinal Transition Study indicates children with disabilities are not learning subject matter content. An urgency exists to develop powerful curricular and instructional interventions that maximize rates of development, promote generalized learning, and reduce discrepancies between their performance and that of their peers.

Intervention research has demonstrated that children with disabilities possess the potential to learn, participate, and contribute in school, home, community, and work place. Research on instructional interventions for children with disabilities has been the hallmark of special education research. For example, research on direct instruction, behavioral management interventions, learning strategies, peer mediated learning, and reciprocal teaching has led to improvements in professional practice.

Yet, single solution interventions are insufficient for teaching children with disabilities complex subject matter content. In many instances, these interventions are content free. Moreover, little empirical evidence is available on the context of the classroom for supporting the implementation of these solutions.

Priority

The Secretary proposes to establish an absolute priority for the purpose of establishing a research institute to study kindergarten through grade six curricular and instructional classroom based interventions that accelerate subject matter learning for children with disabilities and promote its sustained use by practitioners. These studies must examine—

(1) The effectiveness of the intervention for children with disabilities; and

(2) The classroom context that supports the implementation of the interventions that produce and sustain positive learning outcomes for children with disabilities, including such factors as classroom groups; classroom and cross-classroom management strategies; curriculum design principles; classroom settings; instructional materials; amount of time on task; integration into the curriculum; and teacher actions, skills, and attitudes.

The research may include, but need not be limited to, studying classroom based exemplars and models, designing and implementing interventions, and collecting student and teacher data from exemplars, using a rich array of research methods to reach the intended goals of this priority and as articulated by the proposed research hypotheses.

The research Institute must—

(a) Design and conduct a strategic program of research that focuses on

helping students with disabilities in kindergarten through grade six learn subject matter content in critical areas such as reading and math, and builds upon the existing research knowledge for teaching children with disabilities;

(b) Design and conduct a strategic program of research across multiple sites to represent organizational and demographic diversity;

(c) Collect, analyze, and communicate student outcome data and supporting context data; and multiple outcome data for teachers, parents, administrators, as appropriate;

(d) Collaborate with experts and researchers in related subject matter and methodological fields, as appropriate for the program of research, to design and conduct the strategic program of research;

(e) Collaborate with communication specialists and professional and advocacy organizations to ensure that findings are prepared in formats that are useable for specific audiences such as teachers, administrators, and other service providers;

(f) Develop linkages with Education Department technical assistance providers to communicate research findings and distribute products;

(g) Provide training and research opportunities for a limited number of graduate students including students who are from traditionally underrepresented groups; and

(h) Meet with the Office of Special Education Programs (OSEP) project officer in the first four months of the project to review the program of research and communication approaches.

The 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.

Under this priority, the Secretary anticipates making one award for a cooperative agreement 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 the Institute for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(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 site visit to the project are to be performed during the last half of the Institute's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the institute's budget for year two. These costs 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 Research Institute; and

(3) The degree to which the Institute's research designs and methodologies demonstrate the potential for advancing significant new knowledge.

For Further Information Contact: Ellen Schiller, U.S. Department of Education, 600 Independence Avenue SW., Room 3523, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8123. FAX: (202) 205–8105. Internet: Ellen__Schiller@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Program Authority: 20 U.S.C. 1441 and 1442.

Training Personnel for the Education of Individuals With Disabilities Program

Purpose of Program: The purpose of Grants for Personnel Training is to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children, and youth with disabilities.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under these competitions only applications that meet these absolute priorities:

Proposed Absolute Priority 1—Preparation of Special Education, Related Services, and Early Intervention Personnel to Serve Infants, Toddlers, Children, and Youth With Low-Incidence Disabilities

Background

The national demand for educational, related services, and early intervention personnel to serve infants, toddlers, children and youth with low-incidence disabilities exceeds available supply. However, because of the small number of these personnel needed in each State, institutions of higher education and individual States are reluctant to support the needed professional development programs. Of the programs that are available, not all are producing graduates with the prerequisite skills needed to meet the needs of the low-incidence disability population. Federal support is required to ensure an adequate supply of personnel to serve children with low-incidence disabilities and to improve the quality of appropriate training programs so that graduates possess necessary prerequisite skills.

Priority: The Secretary proposes to establish an absolute priority to support projects that increase the number and quality of personnel to serve children with low-incidence disabilities. This priority supports projects that provide preservice preparation of special educators, early intervention personnel, and related services personnel at the associate, baccalaureate, master's, or specialist level.

The term ''low-incidence disability'' means a visual or hearing impairment, or simultaneous visual and hearing impairments, significant mental retardation, or an impairment such as severe and multiple disabilities, severe orthopedic disabilities, autism, and traumatic brain injury, for which a small number of highly skilled and knowledgeable personnel are needed.

Applicants may propose to prepare one or more of the following types of personnel:

(1) Special educators including early childhood, speech and language, adapted physical education, and assistive technology personnel;

(2) Related services personnel who provide developmental, corrective, and other supportive services that assist children with low-incidence disabilities to benefit from special education. Both comprehensive programs and specialty components of programs that emphasize children with low-incidence disabilities within a broader discipline may be supported; or

(3) Early intervention personnel who serve children birth through age 2 with disabilities and their families. Early intervention personnel include persons prepared to provide training for, or be consultants to, service providers and case managers.

The Secretary particularly encourages projects that address the needs of more than one State, provide multi-disciplinary training, and include collaboration among several institutions and between training institutions and public schools. In addition, projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with low-incidence disabilities in inclusive settings are encouraged.

Projects must:

(a) Show how their proposed activities address the need for trained personnel to serve children with low-incidence disabilities, as identified in

State Comprehensive Systems of Personnel Development, in the State or States where personnel trained by the project are expected to be employed;

(b) Prepare personnel to address the specialized needs of children with low-incidence disabilities from different cultural and language backgrounds;

(c) Incorporate best practices in the design of the program and the curricula;

(d) Incorporate curricula that focus on improving results for children with low-incidence disabilities;

(e) Promote high expectations for students with low-incidence disabilities and foster access to the general curriculum in the regular classroom, wherever appropriate; and

(f) Develop linkages with Education Department technical assistance providers to communicate information on program models used and program effectiveness.

Under this absolute priority, the Secretary plans to award approximately:

- 55 percent of the available funds for projects that support careers in special education, including early childhood educators;
- 30 percent of the available funds for projects that support careers in related services; and
- 15 percent of the available funds for projects that support careers in early intervention.

For Further Information Contact: Verna Hart, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3519, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5392. FAX: (202) 205–9070. Internet: Verna__Hart@ed.gov Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Proposed Absolute Priority 2—Preparation of Personnel to Serve Children and Youth With High-Incidence Disabilities

Background: In many States, there are insufficient numbers of personnel available to meet the needs of children with high-incidence disabilities. In addition, the quality of personnel preparation programs needs to be improved so that professionals will be better prepared to help children with high-incidence disabilities reach their individual developmental goals and meet challenging standards.

Priority: The Secretary proposes to establish an absolute priority to support projects that increase the number and quality of personnel to serve children ages 3 through 21 with high-incidence disabilities such as mild or moderate mental retardation, speech or language impairments, emotional disturbance, or specific learning disabilities. This priority supports projects that provide preservice preparation of special educators, including early childhood educators and related services personnel.

A preservice program is defined as one that leads toward a degree, certification, or professional standard, and may be supported at the associate, baccalaureate, master's or specialist level. A preservice program may include the preparation of currently employed personnel who are seeking additional degrees, certifications, or endorsements.

Applicants may propose to prepare one or more of the following types of personnel:

(1) Special educators including speech and language, adapted physical education, and adaptive technology personnel;

(2) Related services personnel who provide developmental, corrective, and other supportive services that assist children with high-incidence disabilities to benefit from special education; and

(3) Early childhood special education or related services personnel who address the needs of children age three through five with high-incidence disabilities and their families.

The Secretary particularly encourages projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with high-incidence disabilities in inclusive settings.

Projects must:

(a) Show through letters of acknowledgement from States or other documentation that the proposed professional development activities support the Comprehensive Systems of Personnel Development of the State or States where personnel prepared by the project are expected to be employed;

(b) Show through letters of acknowledgement from States or other documentation that the proposed personnel preparation meets the standards for employment in the State or States where personnel prepared by the project are expected to be employed;

(c) Prepare personnel to address the needs of children with high-incidence disabilities from different cultural and language backgrounds;

(d) Incorporate best practices in the design of the program and curricula;

(e) Incorporate curricula that focus on improving results for children with high-incidence disabilities;

(f) Promote high expectations for children with high-incidence disabilities and foster access to the general curriculum in the regular classroom, wherever appropriate; and

(g) Develop linkages with Education Department technical assistance providers to communicate information on program models used and program effectiveness.

Under this absolute priority, the Secretary plans to award approximately:

- 55 percent of the available funds for projects that support careers in special education;
- 30 percent of the available funds for projects that support careers in related services; and,
- 15 percent of the available funds for projects that support careers in early childhood education.

For Further Information Contact: Martha Bokee, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3078, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5509. FAX: (202) 205–9070. Internet: Martha____Bokee@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Program Authority: 20 U.S.C. 1431.

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 this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Center to Promote Collaboration and Communication of Effective Practices for Children With, or At Risk of Developing, Serious Emotional Disturbance (SED)

Background: ''Collaboration'' is one of the seven strategic targets identified in the National Agenda for Achieving Better Results for Children and Youth with SED, developed by the Office of Special Education Programs (OSEP) with extensive participation by a variety of individuals and organizations.

Collaboration is critically important, at Federal, State, and local levels: ''To promote systems change resulting in the development of coherent services built around the individual needs of children and youth with and at risk of developing SED.'' In the past, there has been too little interaction between agencies and service providers, e.g., education, mental health, child welfare, and juvenile justice. Lack of coordination between and across agencies has had a negative impact on children and families. The new direction, demonstrated in many of the projects currently funded by OSEP and other agencies, is toward more ''seamless'' and ''wrap-around'' service delivery models built around the needs of students, families, and communities—systems that coordinate services, articulate responsibilities, and provide system-wide and agency-level accountability.

Many of these new model programs are only in their infancy, but are already documenting their effectiveness. It is essential that mechanisms be put in place to foster the identification, development, and exchange of information about these innovative projects—to communicate their findings and approaches nationally to other communities and agencies that are seeking solutions to the needs of children with mental health problems and their families.

Priority: The Secretary proposes to establish an absolute priority to support one cooperative agreement for a center to promote Federal, State, and local interagency collaboration and facilitate the identification, development, and exchange of information on effective practices to improve services for children with SED and for children with emotional and behavioral problems who are at risk of developing SED. The center must coordinate and collaborate with related centers and activities across agencies, including but not limited to: OSEP's ongoing activities to validate and communicate the SED National Agenda; other OSEP and Department-supported technical assistance and information exchange activities; and the two rehabilitation research and training centers (RRTCs) on children's mental health jointly funded by the National Institute on Disability and Rehabilitation Research (NIDRR) and the Center for Mental Health Services (CMHS). The center must provide and support information identification, development, and exchange for Federal, State, and community-based projects and programs providing services for children with or at risk of SED in accordance with a plan that describes the centers schedule.

The center must:

(1) Establish working relationships with Federal, State, and local programs and projects to identify and develop useful and usable information for, and to foster the exchange of usable and useful information with—

(a) Federal, State, and community-based programs and projects to assist them in their efforts; and,

(b) Broader audiences of individuals and organizations including parents and family members of children with or at risk of serious emotional disturbance.

(2) Ensure and facilitate access, including electronic and telecommunication access, to information on SED, including information on projects funded by the Office of Special Education and Rehabilitation Services; other offices in the Department of Education; the Departments of Health and Human Services, Labor, and Justice; and other sources such as foundations and associations, as appropriate.

(3) Evaluate the impact of information identification, development, and exchange activities.

It is anticipated that initial information exchanges will rely heavily upon information already produced by programs and projects, but that additional information will be synthesized and developed by the center based on findings from the available research and information/findings provided to the center by programs and projects.

The center must also ensure that the targets and cross-cutting themes of OSEP's National Agenda for Achieving Better Results for Children and Youth with SED are addressed in the center's information activities. Four areas of particular interest that must be addressed in information activities are: (1) early identification, intervention, and prevention; (2) behavior management, conflict resolution, and other approaches to creating more productive and safe educational environments for all students; (3) personnel preparation; and (4) evaluation of community-based (local) program and service effectiveness.

Under this priority, the Secretary proposes to award one cooperative agreement 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 the center for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), 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. In its budget for the second year, the center must set aside funds to cover the costs of the review team. These funds are estimated to be approximately $4,000.

In determining whether to continue the center for the fourth and fifth years of the project period, in addition to considering the factors in 34 75.253(a), the Secretary will consider the following:

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the center; and

(b) The degree to which the center's evaluation methods and information activities demonstrate the potential for advancing significant new knowledge.

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.

The project must budget for two trips annually to Washington, D.C., for: (1) a two-day Research Project Directors' meeting; and (2) another meeting, in the first quarter of each project year, to meet and review project plans and accomplishments with the OSEP project officer and other OSEP and other agency staff to share information on the project.

For Further Information Contact: Tom V. Hanley, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3526, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8110. FAX: (202) 205–8105. Internet: Tom____Hanley@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Program Authority: 20 U.S.C. 1423

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and

qualitative—of this notice of proposed priorities, the Secretary has determined that the benefits of the proposed priorities justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed priorities without impeding the effective and efficient administration of the program.

Summary of Potential Costs and Benefits: There are no identified costs associated with this notice of proposed priorities. Announcement of the priorities will not result in costs to State and local governments, recipients of grant funds, or to children and youth with disabilities and their families. The benefit from these priorities will be to focus activities and Federal assistance on improving outcomes for children and youth with disabilities.

Intergovernmental Review

Except for the Research in Education of Individuals with Disabilities Program (84.023), 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 SW., 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.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Training Personnel for the Education of Individuals with Disabilities Program, 84.029; and Program for Children and Youth with Serious Emotional Disturbance, 84.237)

Dated: November 8, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3843 Filed 2–20–96; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Wednesday
February 21, 1996

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapters 1 and 2

Federal Acquisition Regulation: Implementation of the Acquisition Provisions of the Fiscal Year 1996 Defense Authorization Act; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapters 1 and 2

Federal Acquisition Regulation; Implementation of the Acquisition Provisions of the Fiscal Year 1996 Defense Authorization Act

AGENCIES: Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Acquisition Regulations Council is soliciting comments regarding the implementation of the acquisition provisions in Divisions D and E of the Fiscal Year 1996 Defense Authorization Act (Pub. L. 104–106)(Act). The Defense Acquisition Regulations (DAR) Council, in concert with the Civilian Agency Acquisition Council (CAAC), has initiated 20 Federal Acquisition Regulation (FAR) cases to address those provisions of Act that may require implementation in the FAR. The FAR Council is requesting any interested parties to provide advance comment on how these provisions should be implemented. Comments received will be considered in the development of proposed or interim rules. In addition, a 60-day public comment period will be provided once proposed and/or interim FAR rules are drafted.

DATES: Comments should be submitted to the address shown below on or before March 22, 1996.

ADDRESSES: Interested parties should submit comments to the FAR Secretariat, General Services Administration, 18th & F Streets NW, Washington DC 20405. Please cite the specific section or case number, to which the comments pertain, in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, (202)501-4755.

SUPPLEMENTARY INFORMATION: Following is a listing of cases initiated to implement sections of the Fiscal Year 1996 Defense Authorization Act which may require FAR revisions (Section number/Case number): 801/96–300; 4101/96–301; 4102/96–302; 4103/96–303; 4104/96–304; 4105/96–305; 4201/96–306; 4202/96–307; 4203/96–308; 4204/96–309; 4205/96–310; 4301(a)(3)/96–311; 4301(b)/96–312; 4302/96–313; 4304/96–314; 4306/96–315; 4310/96–316; 4311/96–317; 724/96–318; Division E, including: 5001, 5002, 5101, 5111, 5112, 5113, 5121, 5122, 5123, 5124, 5125, 5126, 5127, 5128, 5131, 5132, 5141, 5142, 5201, 5202, 5301, 5302, 5303, 5304, 5305, 5311, 5312, 5401, 5402, 5403, 5501, 5502, 5601, 5602, 5603, 5604, 5605, 5607, 5608, 5701, 5702, 5703/96–319.

Dated: February 14, 1996.

Ralph De Stefano,

Acting Director, Division of Federal Acquisition Policy.

[FR Doc. 96–3805 Filed 2–20–96; 8:45 am]

BILLING CODE 6820–EP–P

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