3–6–96
Vol. 61 No. 45
Pages 8851–9088

federal register

Wednesday
March 6, 1996

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

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the Federal Register shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the Federal Register is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids gpo.gov; by faxing to (202) 512–1262; or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the Federal Register paper edition is $494, or $544 for a combined Federal Register, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the Federal Register including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the Federal Register.

How To Cite This Publication: Use the volume number and the page number. Example: 61 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530
Single copies/back copies:	
Paper or fiche	512–1800
Assistance with public single copies	512–1803
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WASHINGTON, DC

[Two Sessions]

WHEN: March 12, 1996 at 9:00 am and March 26, 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

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 61, No. 45
Wednesday, March 6, 1996

Agriculture Department
See Federal Crop Insurance Corporation
See Food and Consumer Service
See Food Safety and Inspection Service

Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 9009–9011

Army Department
NOTICES
Meetings:
Science Board, 8922–8923

Blackstone River Valley National Heritage Corridor Commission
NOTICES
Meetings; Sunshine Act, 8972

Broadcasting Board of Governors
NOTICES
Meetings; Sunshine Act, 8908

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 8909–8910

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Arizona, 8908
Wyoming, 8908–8909

Commerce Department
See Census Bureau
See Export Administration Bureau
See International Trade Administration
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 8909

Community Services Office
NOTICES
Grants and cooperative agreements; availability, etc.:
National youth sports program, 8942–8960

Defense Department
See Army Department

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
G&O Pharmacy et al., 8973–8977

Education Department
NOTICES
Meetings:
National Resource Center and foreign language and area studies fellowship programs; technical assistance workshop, 9050

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Kentucky, 8873–8875
Clean Air Act:
State operating permits programs—
Indiana; correction, 8875–8876
Pesticide programs:
Federal Insecticide, Fungicide, and Rodenticide Act container and containment standards
Exemptions, 8876–8879
Toxic substances:
Lead—
Lead-based paint poisoning prevention in residential structures; information disclosure requirements, 9064–9088
PROPOSED RULES
Air programs:
Stratospheric ozone protection—
Motor vehicle air conditioners servicing, 9014–9033
Air quality implementation plans; approval and promulgation; various States:
Kentucky, 8901
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Prosulfuron, 8903–8905
Triphenyltin hydroxide, 8901–8903
NOTICES
Pesticide registration, cancellation, etc.:
Methoxychlor, etc., 8928–8930
Provado 1.6 Flowable, etc., 8930–8932
Pesticides; emergency exemptions, etc.:
Bifenthrin, 8932–8933
Mancozeb, 8933–8934
Metolachlor, 8934–8935

Export Administration Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 8910–8911

Family Support Administration
See Community Services Office

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 8935–8936

Federal Aviation Administration
RULES
Class D and Class E airspace, 8859

PROPOSED RULES
Airworthiness directives:
Airbus, 8896–8899
Airbus Industrie, 8892–8896
Class D airspace, 8899–8900
NOTICES
Meetings:
RTCA, Inc., 9003
Passenger facility charges; applications, etc.:
Los Angeles International Airport, CA, 9003–9004

Federal Communications Commission
RULES
Common carrier services:
Inmate calling services; prison payphones; designation as customer premises equipment (CPE); declaratory ruling, 8879
Tariffs—
Billing name and address; tariffing requirements, 8879–8880
Radio stations; table of assignments:
North Carolina, 8881
Pennsylvania, 8880–8881
PROPOSED RULES
Common carrier services:
Satellite communications—
Fixed-satellite service in 13.75-14.0 GHz band, 8905
Radio services, special:
Aviation services—
Aeronautical advisory stations (unicoms); automatic operation, 8905–8907

Federal Crop Insurance Corporation
RULES
Crop insurance regulations:
Malting barley option crop insurance provisions, 8851–8858

Federal Energy Regulatory Commission
RULES
Natural gas companies (Natural Gas Act):
Uniform system of accounts, forms, statements, and reporting requirements; revisions, 8860–8872
NOTICES
Data availability on bulletin board system for review by working groups, 8925–8926
Electric rate and corporate regulation filings:
DC Tie, Inc., et al., 8926–8928
Environmental statements; availability, etc.:
Upper Peninsula Power Co., 8925
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 8923–8924
Consolidated Edison Co. of New York, Inc., 8924
Koch Gateway Pipeline Co., 8924–8925

Federal Maritime Commission
NOTICES
Complaints filed:
Rose International, Inc., et al., 8936

Federal Railroad Administration
RULES
Railroad locomotive safety standards:
Locomotive conspicuity; auxiliary external lights; minimum standards, 8881–8888

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Home Financial Bancorp et al., 8936

Federal Trade Commission
NOTICES
Prohibited trade practices:
Georgetown Publishing House Ltd. Partnership et al., 8936–8939
Mrs. Fields Cookies, Inc., 8939–8941

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 8968–8969
Marine mammal permit applications, 8921–8922

Food and Consumer Service
NOTICES
Agency information collection activities:
Proposed collection; comment request; correction, 8908

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
Mallinckrodt Veterinary, Inc., 8872–8873
PROPOSED RULES
Food for human consumption:
Food labeling—
Nutrient content claims; general principles; correction, 8900–8901
NOTICES
Agency information collection activities:
Proposed collection; comment request, 8960–8961
Harmonisation International Conference; guidelines availability:
Stability testing for new dosage forms, 9060–9061
Human drugs, medical devices, and biological products:
Clinical program design for developing treatment of rheumatoid arthritis; guidance and workshop, 8961–8962

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
Substances suitable for use in meat and poultry products preparation; approval procedures, 8892

Government Ethics Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 8941–8942

Health and Human Services Department
See Community Services Office
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Reports: availability, etc.:
Integrity and misconduct in research, 8942

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Ryan White Title IV human immunodeficiency virus (HIV) program—
Children, youth, women, and families; coordinated services and access to research, 8962–8965

Housing and Urban Development Department
RULES
Federal regulatory review:
Low income housing—
HOME investment partnerships program, 9036–9037
Lead-based paint poisoning prevention in residential structures; information disclosure requirements, 9064–9088
Low income housing:
Assisted housing admission preferences; Federal regulatory review, 9040–9048
Public and Indian housing:
Indian loan guarantee program; housing financing on restricted lands, 9052–9058
NOTICES
Agency information collection activities:
Proposed collection; comment request, 8965–8968
Submission for OMB review; comment request, 8968

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
Institutional hearing program director, 8858–8859

Indian Affairs Bureau
NOTICES
Irrigation projects; operation and maintenance charges:
Wapato Irrigation Project, WA, 8969–8970

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Reclamation Bureau

International Development Cooperation Agency
See Overseas Private Investment Corporation

International Trade Administration
NOTICES
Antidumping:
Polyethylene terephthalate film, sheet, and strip from—
Korea, 8911
Porcelain-on-steel cookware from—
Mexico, 8911–8914
Stainless steel wire rods from—
France, 8915–8918
Standard welded carbon steel pipe and tube from—
Turkey, 8918–8919

Justice Department
See Drug Enforcement Administration
See Immigration and Naturalization Service
See National Institute of Justice

Labor Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 8978–8979

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Cyprus Bagdad Copper Corp., Bagdad, AZ; tailings and waste rock disposal areas, 8970
Realty actions; sales, leases, etc.:
Utah, 8970–8971
Survey plat filings:
Idaho, 8971

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
Surety bond coverage for leases, 8901

Minority Business Development Agency
NOTICES
Community-based enhanced services initiative; implementation, 8919–8920

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 9004–9005

National Institute of Justice
NOTICES
Boot camp research and evaluation, 8978

National Institutes of Health
NOTICES
Meetings:
National Institute of Environmental Health Sciences, 8965

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 8888–8890
Gulf of Alaska groundfish, 8888
Western Pacific bottomfish, 8890–8891
NOTICES
Grants and cooperative agreements; availability, etc.:
Joint and cooperative institute program, 8920–8921
Permits:
Marine mammals, 8921–8922

National Park Service
NOTICES
Native American human remains and associated funerary objects:
Everglades National Park, FL; Miccosukee inventory, 8971–8972
Museum of New Mexico, NM; Acoma inventory, 8972

National Science Foundation
NOTICES
Meetings:
Biological Sciences Special Emphasis Panel, 8979
Civil and Mechanical Systems Special Emphasis Panel, 8979–8980

Ecological Studies Advisory Panel et al., 8980
Elementary, Secondary and Informal Education Special Emphasis Panel, 8980
Human Resource Development Special Emphasis Panel, 8980–8981
Materials Research Special Emphasis Panel, 8981
Mathematical Sciences Special Emphasis Panel, 8981
Systemic Reform Office Special Emphasis Panel, 8981
Systemic Reform Special Emphasis Panel, 8981

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Vermont Yankee Nuclear Power Corp., 8984–8985
Meetings:
Materials licensing process; public workshop, 8985
Reactor Safeguards Advisory Committee, 8985–8986
Applications, hearings, determinations, etc.:
Cleveland Electric Illuminating Co. et al., 8982–8984
Cleveland Electric Illuminating Co. et al.; correction, 8981–8982

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 8986

Patent and Trademark Office
NOTICES
Meetings:
Nucleic acid sequences found in patent applications; search systems, 8922

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
American River, CA; water resources investigation; workshops and hearings, 8972–8973

Research and Special Programs Administration
NOTICES
Pipeline safety:
User fees, 9005

Securities and Exchange Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Consumer Affairs Advisory Committee, 8989
Self-regulatory organizations; proposed rule changes:
Cincinnati Stock Exchange, Inc., 8989–8991
Delta Government Options Corp., 8991
Depository Trust Co., 8992–8995
International Securities Clearing Corp., 8995–8996
National Association of Securities Dealers, Inc., 8996–8997
National Securities Clearing Corp., 8997–8998
New York Stock Exchange, Inc., 8998–9000
Philadelphia Depository Trust Co., 9000–9001
Philadelphia Stock Exchange, Inc., 9001–9002
Applications, hearings, determinations, etc.:
John Hancock Capital Growth Fund, 8986–8987
Lexington Short-Intermediate Government Securities, Inc., et al., 8987
McDonald & Co. Securities, Inc., et al., 8987–8989

State Department
NOTICES
Meetings:
Historical Diplomatic Documentation Advisory Committee, 9002

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Arkansas-Oklahoma Railroad Co., 9006
Minnesota Commercial Railway Co., 9006

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Hearings, etc.—
Sunworld International Airlines, Inc., 9003

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 9006–9008
Privacy Act:
Systems of records, 9008–9009

Separate Parts In This Issue

Part II
Environmental Protection Agency, 9014–9033

Part III
Housing and Urban Development Department, 9036–9037

Part IV
Housing and Urban Development Department, 9040–9048

Part V
Education Department, 9050

Part VI
Housing and Urban Development Department, 9052–9058

Part VII
Health and Human Services Department, Food and Drug Administration, 9060–9061

Part VIII
Housing and Urban Development Department; Environmental Protection Agency, 9064–9088

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

Electronic Bulletin Board

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
457.....8851

8 CFR
242.....8858

9 CFR

Proposed Rules:
310.....8892
318.....8892
319.....8892
381.....8892

14 CFR
71.....8859

Proposed Rules:
39 (3 documents) 8892, 8896, 8897
71.....8899

18 CFR
201.....8860
284 (2 documents) 8860, 8870

21 CFR
510.....8872
520.....8872
522.....8872
524.....8872

Proposed Rules:
101.....8900

24 CFR
5.....9040
35.....9064
92.....9036
880.....9040
881.....9040
882.....9040
883.....9040
884.....9040
885.....9040
886.....9040
889.....9040
904.....9040
955.....9052
960.....9040
982.....9040
983.....9040

30 CFR

Proposed Rules:
250.....8901
251.....8901
256.....8901

40 CFR
52.....8873
70.....8875
152.....8876
745.....9064

Proposed Rules:
52.....8901
82.....9014
180 (2 documents) 8901, 8903

47 CFR
61.....8879
64 (2 documents) 8879
73 (2 documents) 8880, 8881

Proposed Rules:
2.....8905
25.....8905
87.....8905

49 CFR
229.....8881

50 CFR
672.....8888
675 (2 documents) 8888, 8889
683.....8890

Rules and Regulations

Federal Register
Vol. 61, No. 45
Wednesday, March 6, 1996

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB24

Common Crop Insurance Regulations; Malting Barley Price and Quality Endorsement Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (''FCIC'') hereby issues additional regulations for provisions to insure malting barley. This action will add a second endorsement, the Malting Barley Price and Quality Endorsement, under which malting barley may be insured. The current malting barley endorsement will remain in effect for the 1996 crop only and, effective with the 1997 crop year, will be replaced by the new Malting Barley Price and Quality Endorsement. The intended effect of this rule is to improve the insurance coverage now available for producers who grow malting barley under contract and provide a new option that will allow producers without contracts (open market producers) to obtain insurance for their malting barley.

EFFECTIVE DATE: March 4, 1996.

ADDRESSES: For information concerning submission of comments on information collection, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: For further information and a copy of the Cost-Benefit Analysis to the Malting Barley Price and Quality Endorsement Crop Insurance provisions, contact Diana Moslak, United States Department of Agriculture, Federal Crop Insurance Corporation, Washington, D.C. 20250. Telephone (202) 720–0713.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Departmental Regulation 1512–1

This action has been reviewed under United States Department of Agriculture (''USDA'') procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is July 1, 2000.

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

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that the expected benefits of this action outweigh the costs. The new Malting Barley Price and Quality Endorsement will simplify program operations, benefit FCIC and reinsured companies, and enhance the insurance coverage for malting barley producers.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions on information collection requirements previously approved by OMB under OMB control number 0563–0003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for 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, FCIC 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, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. The impact of obtaining or delivering these policies will not vary significantly from that required to obtain or deliver the present policy. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. § 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The

administrative appeal provisions at 7 CFR part 11, must be exhausted before action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Monday, December 11, 1995, FCIC published a proposed rule in the Federal Register at 60 FR 63457 to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.103, Malting Barley Option Provisions, effective for the 1996 and succeeding crop years. However, the December 31, 1995, date by which contract changes must be made for the 1996 crop year passed before the provisions could be published as a final rule. Therefore, for the 1996 crop year only, FCIC will make both the current Malting Barley Endorsement (§ 457.103) and this new Malting Barley Price and Quality Endorsement (§ 457.118) available. The new endorsement will make insurance coverage available to malting barley producers who do not hold a production contract with a malting or brewing company, and to improve coverage for those producers who do have such a contract. Beginning with the 1997 crop year, the Malting Barley Price and Quality Endorsement will replace the current Malting Barley Endorsement.

Following publication of the proposed rule, the public was afforded 15 days to submit written comments, data, and opinions. FCIC received 33 comments. The comments received and FCIC responses are as follows:

Comment: One comment received from a State Commissioner of Agriculture recommended adding the following to the supplementary information in the preamble: ''FCIC must offer producers the right to mediation as required under Pub. L. No. 103–354, as part of the informal administrative appeal process.''

Response: FCIC agrees that mediation may be required in some instances but that requirement is contained in the appeal regulations.

Comment: Three comments were received regarding the length of the comment period for the proposed rule. One received from the legal counsel of a reinsured company stated that FCIC's proposed rulemaking is in violation of the Administrative Procedure Act. Two comments, one from the insurance industry and one from a State Commissioner of Agriculture, indicated that the comment period was too short.

Response: FCIC published its proposed regulation with a shortened comment period in order to allow sufficient time to consider all comments and publish the final rule with sufficient time before the sales closing date to permit the sale of the insurance policies and training of insurance providers. Further, interested parties were kept apprised of the proposed changes to the malting barley program, and the date of its publication, in order to facilitate their ability to provide meaningful comments within the short time period. No violation of the Administrative Procedure Act has occurred.

Comment: One comment received from the insurance industry recommended that implementation of this rule be delayed until the 1997 crop year. The comment indicated that it is too late to implement the proposed program changes for the 1996 crop year because: (1) The Standard Reinsurance Agreement (SRA) is already in place and approved; (2) Agent training is completed in many areas, and procedures for 1996 are in place; and (3) Little time for training and marketing will be available. The comment states that changing the endorsement for the 1996 crop year will require FCIC to allow companies to make changes to the SRA fund and percentage elections; and that reimbursement of company costs associated with marketing, training, and reissuance of procedures will need to be addressed under the 1996 SRA.

Response: There is nothing in the SRA that precludes FCIC from changing the terms of an insurance contract prior to the contract change date or offering new insurance products after implementation of the current years' SRA. FCIC is offering the new Malting Barley Price and Quality Endorsement as a new insurance product to be sold in conjunction with the currently available malting barley endorsement. Nothing requires any company to sell the endorsement. The Company may do so if it believes that making the option available is good business.

Comment: One comment received from a barley industry organization indicated that the new endorsement will offer an important option to many North Dakota open-market barley producers. The comment further stated that these producers now will be afforded the opportunity to insure against quality losses at representative prices.

Response: FCIC agrees.

Comment: One comment received from the Farm Service Agency (FSA) asked if the endorsement will be available in all counties that currently have a feed barley insurance program or only in counties that currently have malting barley insurance.

Response: The new endorsement will initially be available only in counties that currently have a malting barley insurance program in place.

Comment: One comment received from the insurance industry indicated it would be advantageous for producers to elect Option A or B on a yearly basis rather than the initial selection being continuous. The comment stated that insureds with Option B will think they have an endorsement in effect even if they fail to execute a malting barley contract.

Response: This recommendation would result in unnecessary additional paperwork and administrative expense each crop year. The endorsement is clear that there is no coverage when the producer fails to obtain a malting barley contract. Further, a producer can cancel an Option and select another, provided it is done prior to the sales closing date. Also, there are large malt barley growing areas in which there is very little, if any, contracted production. Requiring producers to affirmatively select option A each year is unnecessary in these areas. No changes in the proposed provisions have been made.

Comment: One comment received from a State Commissioner of Agriculture suggested adding the following language to section 2 of the endorsement: ''Producers who sign up for coverage Option A at the time of the sales closing date, and subsequently enter into a contract with some or all of their malting barley production will retain the Option A malting barley coverage. The malting barley production guarantee for the producer then will be the same as the coverage guaranteed under the Option A insurance contract.'' The comment indicated that malting barley contracts can be entered into in the late spring and that growers with Option A coverage should not forego their insurance coverage if they do enter into such a contract.

Response: FCIC agrees with the comment. Section 2 and language in the heading of Option A have been amended accordingly.

Comment: Two comments were received, one from FSA and one from

the insurance industry, that recommended clarifying whether the additional value price election percentage can vary from that selected for feed barley or if the percentages must be the same.

Response: It is intended that producers be allowed to select a price election percentage for malting barley that varies from that selected for feed barley. FCIC agrees that clarification is needed and has amended the provisions in section 3 accordingly.

Comment: One comment received from the insurance industry indicated that the provision requiring a producer to select an additional value price election at the time of application would work the first year of insurance, but would be a problem in succeeding years. The comment also asked what procedure would be followed to change price elections from year to year.

Response: Under any crop insurance policy, the producer is required to select a price election. There is greater uncertainty under Option B because the price upon which the election is based is not established prior to the sales closing date. However, there is too great a risk of adverse selection associated with permitting producers to select their price elections after their prices have been established by contract. The maximum price election is stated in Option B. Procedures to change price elections from year to year will be the same as those in effect for other crops. No change has been made to the proposed provision.

Comment: One comment received from a State Commissioner of Agriculture recommended providing prevented planting coverage under the terms of the endorsement.

Response: Determining a producer's intentions would make prevented planting difficult to administer. Under other insurance products, all terms of the contract are known on or before the sales closing date. However, under this endorsement, a producer may not know if the malting barley will be under contract, the number of acres insurable under the endorsement or the price until the acreage reporting date. This uncertainty makes it difficult to establish an actuarially sound premium rate. Therefore, FCIC finds it appropriate to provide prevented planting coverage on the basis of the feed barley production guarantee and price election. If reliable methods to administer a prevented planting program can be devised, then the endorsement can later be amended. No change to the proposed provision has been made.

Comment: One comment received from a producer organization indicated that the proposed ''cap'' of 200% of the maximum additional value price election shown on the Special Provisions is too low to cover the contract prices received for malting barley. The comment suggested ''capping'' the additional value price election under Option B at $2.00 per bushel.

Response: FCIC agrees and has revised the provisions as recommended.

Comment: One comment received from the insurance industry recommended changing the time by which a producer must submit a claim for indemnity to the earlier of the date of final disposition of all production or May 31 of the calendar year following the year the crop is normally harvested.

Response: FCIC agrees that the time of disposition of all production should be considered and has amended the provisions in section 7 accordingly.

Comment: Two comments received from the insurance industry indicated concern regarding the extended date for settling claims. One comment stated that keeping claims open until May 31 places the insurance provider well into the following crop year when early losses are being worked, and increases the likelihood of errors. This comment also recommended using a system of discount factors to allow claims to be worked at harvest time. The other comment indicated that the settlement date will delay needed benefits to producers and complicate settlement under the Standard Reinsurance Agreement.

Response: Losses will have initially been adjusted as soon as possible after the notice of loss. It is only when there is production that fails to meet the quality criteria that the claim remains open. If the claim remains open, adjustment only occurs if, and when, the producer is able to sell such production. If such production is later sold, there is little or no economic loss to producers. Even though settlement of claims may be delayed, the use of discount factors or settlement of claims at harvest time is not actuarially sound since it will allow the producer to receive payments to which he may not be entitled. Further, since the May 31 deadline still falls under the same Standard Reinsurance Agreement, settlement should not be complicated by this delay. Therefore, no change has been made to the proposed provisions.

Comment: One comment received from the insurance industry indicated that some producers may contract the production from some acreage but also grow additional acreage for open-market sales. The comment indicated that it would be difficult to track the acreage separately and that the problem might be rectified by allowing the uncontracted acreage to be insured under Option A.

Response: The endorsement already requires producers who grow both contracted and non-contracted production within the same crop year to insure such production under Option A. As indicated in the comment, it is difficult to track the specific acreage from which malting barley production is harvested. Therefore, no change is required.

Comment: Two comments received from the insurance industry recommended using the same Actual Production History (APH) database for both feed and malting barley. One of the comments recommended using a temporary yield in the malting barley APH database to avoid a one year difference in the databases between malting and feed barley. This comment also recommended making reference to the APH crop year in section 1 of Option A to avoid confusion.

Response: FCIC considered using temporary yields in malting barley databases but elected not to do so because of the extra paperwork and administrative expense involved with replacing the temporary yields each year. FCIC agrees that adding a reference to APH in section 1 of Option A may help clarify record requirements and has amended the section accordingly.

Comment: One comment received from the insurance industry recommended that the malting barley APH database reflect only acreage from which malting barley was actually sold. The comment indicated that a guarantee based on the total acreage planted to malting varieties and the production sold for malting purposes would misrepresent potential production.

Response: Since all acreage planted to approved malting varieties is insured and the production available for sale, it must be considered in the database. Otherwise, FCIC would be providing insurance for changes in the market, which is not an insured cause of loss. No changes have been made to the proposed provisions.

Comment: One comment received from a State Commissioner of Agriculture recommended changing the number of yearly records of sale of malting barley that are required from at least four years to three out of the previous five years. The comment further recommended that ''acceptable records'' be defined.

Response: Allowing the producer to select the years for which production

records are provided might result in the poorest production years not being reflected in the data base. This would result in excessive production guarantees, losses, and loss ratios. Specific production record requirements are statutory and will be contained in procedural handbooks. No change has been made to the proposed provision.

Comment: One comment received from a State Commissioner of Agriculture recommended removing provisions that limit the malting barley production guarantee to that determined for feed barley. The comment recommends using only the malting barley records to determine coverage under Option A, and only the contracted amount of production to determine coverage under Option B.

Response: The production guarantee is intended to determine that portion of the expected production that will be insured. Producers should not receive a guarantee in excess of what the acreage could reasonably be expected to produce. Under Option A, the best indicator of the expected production is using the APH for feed barley because it takes into consideration all the actual production from the insured acreage, whether or not sold as malting barley. Under Option B, the producer's insurance is limited to contracted acreage or production. However, the contracted amount may differ from the actual production of the acreage. Therefore, the actual production must be taken into consideration. No change has been made to the proposed provisions.

Comment: One comment received from the insurance industry recommended changing the date by which a producer must submit a copy of the malting barley contract from the acreage reporting date to the sales closing date. The comment stated that adverse selection would be reduced by changing this requirement to an earlier date.

Response: In many cases, malting barley contracts are not completed until April or May. Changing the contract submission date to the March 15 sales closing date would cause many growers who normally complete contracts after this date to be ineligible for coverage under Option B. No change has been made in the proposed provisions.

Comment: One comment received from the insurance industry stated that the insurance guarantee under Option B would be underestimated when a grower plants more acreage to approved malting varieties than the number of acres grown under contract.

Response: Option B is not available to producers who grow more acreage of malting barley than is under contract. Option A should be used by producers who grow all open-market production or a combination of contracted and open-market production.

Comment: One comment received from the insurance industry asked if an additional data base would have to be established for malting barley.

Response: Separate production data bases will be required for any acreage planted to approved malting barley varieties and acreage planted for feed barley.

Comment: One comment received from the FSA recommended expanding the premium computation contained in Option B, section 3(b) (redesignated as 3(c) in the final rule) to include the factors to be applied, whether or not a separate liability is to be calculated, and the applicable premium rate (feed barley or a separate rate).

Response: The comment misinterprets the term ''premium'' in this subsection. As used in Option B, section 3(c), the term refers to an additional dollar amount (above the base) paid to the producer for barley production meeting contractual requirements rather than the premium amount charged for insurance. The provision has been clarified by using the term ''premium price per bushel.''

Comment: One comment received from the FSA recommended that the definition of unit be clarified to indicate that units by share will be available. The comment stated that the proposed provisions indicate that basic units will not be available.

Response: All acreage of malting barley is insurable under a single unit; basic units are not available. All insurable shares in the malting barley will be designated on the acreage report for the single unit. No changes have been made in the proposed provisions.

Comment: One comment received from a State Commissioner of Agriculture recommended that producers have the option of designating, on an acre by acre basis, either feed barley insurance coverage or malting barley insurance coverage. The comment further suggested that producers have the option of designating separate insurance units.

Response: To prevent selecting against the insurance provider, all acreage planted to approved malting varieties must be insured as malting barley. Allowing malting barley insurance only on acreage selected by the producers would allow them to designate malting barley insurance only on acreage where they have had difficulty producing barley meeting malting barley standards and, thus, receiving a larger indemnity than would be available for feed barley. Allowing units would create situations in which growers could deliver 100 percent or more of the malting barley guarantee and still receive an indemnity for a malting barley loss on one or more units. This not only violates an accepted principle of insurance that the insured should not profit by a loss, it also makes it difficult to develop an adequate premium rate for the coverage. No changes in the provisions have been made.

Comment: One comment received from a State Commissioner of Agriculture recommended removing the requirement that potential unharvested production be counted against the insurance guarantee. The comment indicated that the intent of provisions in section 4(a)(2) of Option B is unclear.

Response: This section may be unclear because of a drafting error. Section 4(a)(2) of Option B should not begin with the word ''either.'' This correction has been made. This section is intended to require that all harvested production and all production that is not harvested be considered when determining the amount of production to count against the production guarantee.

Comment: One comment received from the FSA pointed out a typographical error in the second sentence of section 7 (redesignated as section 6 in this final rule) in Option B. The sentence should read as follows: Assume that *each* unit contains....

Response: The correction has been made.

Comment: One comment received from the insurance industry asked for clarification of the 2,100 bushel guarantee reference in section 7 (redesignated as section 6 in this final rule) of Option B.

Response: This provision has been revised to clarify how an indemnity will be paid.

Comment: One comment received from the crop insurance industry indicated that the producer's share needs to be added to the provisions regarding calculation of the claim amount.

Response: FCIC agrees and has amended the provisions as recommended.

In addition to the changes indicated above, FCIC has determined that it is necessary to:

(1) Modify the definition of ''Malting barley contract'' for the purpose of clarification;

(2) Add provisions in section 9 to indicate that production of approved malting varieties and any production of

feed barley varieties must not be commingled prior to the insurance provider making all necessary determinations for the purposes of this coverage; Failure to keep production separate may result in denial of indemnity under the endorsement;

(3) Delete the definition of ''Value per bushel.'' This definition was used to describe how production not meeting quality standards contained in the endorsement was to be valued if such production was ultimately sold as malting barley. The definition is unnecessary because the value of such production will simply be the sale price per bushel of the damaged production;

(4) Add provisions in section 4(b) of both Options A and B to allow conditioning costs to be subtracted from the value of production that could not be sold for malting purposes without conditioning; and

(5) Relocate provisions regarding delayed settlement of claims from section 5 of both Options to section 7 of the provisions that apply to both Options. These provisions were identical in the proposed rule and should not be duplicated. Provisions 6 and 7 of both Options have been redesignated as sections 5 and 6, respectively.

Good cause is shown to make this rule effective upon publication in the Federal Register and without the 30-day period required by the Administrative Procedure Act. This rule substantially improves the malting barley insurance coverage. Public interest requires the agency to act immediately to make this endorsement available for the 1996 crop year. The rule expands coverage availability to producers who do not hold a production contract with a malting or brewing company and improves coverage for those producers who do have such a contract, Therefore, good cause is shown to make this final rule effective in less than 30 days after publication.

List of Subjects in 7 CFR Part 457

Crop insurance, Malting Barley Price and Quality Endorsement Crop Provisions.

Final Rule

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. § 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Common Crop Insurance Regulations (7 CFR part 457) by adding a new § 457.118, effective for the 1996 and succeeding crop years, to read as follows:

PART 457—[AMENDED]

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. 7 CFR part 457 is amended by adding a new § 457.118 to read as follows:

§ 457.118 Malting Barley Crop Insurance.

The malting barley crop insurance provisions for the 1996 and succeeding crop years are as follows:

United States Department of Agriculture Federal Crop Insurance Corporation Small Grains Crop Insurance Malting Barley Price and Quality Endorsement

(This is a continuous endorsement. Refer to section 2 of the Common Crop Insurance Policy.)

In return for your payment of premium for the coverage contained herein, this endorsement will be attached to and made part of the Common Crop Insurance Policy (§ 457.8) and Small Grains Crop Provisions (§ 457.101), subject to the terms and conditions described herein.

1. You must have the Common Crop Insurance Policy (§ 457.8) and the Small Grains Crop Insurance Provisions (§ 457.101) in force to elect to insure malting barley under this endorsement.

2. You must select either Option A or Option B on or before the sales closing date. Failure to select either Option A or Option B, or if you elect Option B but fail to have a malting barley contract in effect by the acreage reporting date, will result in no coverage under this endorsement for the applicable crop year. If you elect coverage under Option A, and subsequently enter into a malting barley contract, your coverage will continue under the terms of Option A. Your selection (Option A or B) will continue from year to year unless you cancel or change your selection on or before the sales closing date.

3. You must select either an additional value price election or a percentage of the maximum additional value price election on or before the sales closing date. The percentage of the maximum additional value price election you select does not have to be the same as that selected under the Small Grains Crop Provisions for feed barley. In the event that you choose a percentage of the maximum additional value price election, we will multiply that percentage by the maximum additional value price election specified in Option A or B to determine the additional value price election that pertains to your contract.

4. The additional premium amount for this coverage will be determined by multiplying your malting barley production guarantee per acre by your selected additional value price election, times the premium rate stated in the Actuarial Table, times the acreage planted to approved malting barley varieties, times your share at the time coverage begins.

5. In addition to the reporting requirements contained in section 6 of the Common Crop Insurance Policy (§ 457.8), you must provide the information required by the Option you select.

6. In lieu of the provisions regarding units and unit division in the Common Crop Insurance Policy (§ 457.8) and the Small Grains Crop Provisions (§ 457.101), all barley acreage in the county that is planted to malting varieties that is insurable under the Small Grains Crop Provisions for feed barley and your selected Option must be insured under this endorsement and will be considered as one unit regardless of whether such acreage is owned, rented for cash, or rented for a share of the crop. The producer's shares in the malting barley acreage to be insured under this endorsement must be designated on the acreage report.

7. In lieu of the provisions in the Common Crop Insurance Policy (§ 457.8) that requires us to pay your loss within 30 days after we reach agreement with you, whenever any production fails one or more of the quality criteria specified herein, the claim may not be settled until the earlier of:

(a) The date you sell, feed, donate, or otherwise utilize such production for any purpose; or

(b) May 31 of the calendar year immediately following the calendar year in which the insured malting barley is normally harvested.

If the production meets all quality criteria contained herein or grades U.S. No. 4 or lower in accordance with the grades and grade requirements for the subclasses Six-rowed and Two-rowed barley, and for the class Barley in accordance with the Official United States Standards for Grain, the claim will be settled within 30 days in accordance with the Common Crop Insurance Policy (§ 457.8).

8. This endorsement does not provide additional prevented planting coverage. Such coverage is only provided in accordance with the provisions of the Small Grain Crop Provisions for feed barley.

9. Production from all acreage insured under this endorsement and any production of feed barley varieties must not be commingled prior to our making all determinations necessary for the purposes of this insurance. Failure to keep production separate may result in denial of your claim for indemnity.

10. Definitions:

(a) APH—Actual production history as determined in accordance with 7 CFR part 400, subpart G.

(b) Approved malting variety—A variety of barley specified as such in the Special Provisions.

(c) Brewery—A facility where malt beverages are commercially produced for human consumption.

(d) Contracted production—A quantity of barley the producer agrees to grow and deliver, and the buyer agrees to accept, under the terms of the malting barley contract.

(e) Licensed grain grader—A person authorized by the U.S. Department of Agriculture to inspect and grade barley under the U.S. Standards for malt barley.

(f) Malting barley contract—An agreement in writing between the producer and a brewery or a business enterprise that produces or sells malt or processed mash to a brewery, or a business enterprise owned by such brewery or business, that contains the

amount of contracted production, the purchase price, or a method to determine such price, and other such terms that establish the obligations of each party to the agreement.

(g) Objective test—A determination made by a qualified person using standardized equipment that is widely used in the malting industry, and following a procedure approved by the American Society of Brewing Chemists when determining percent germination or protein content; grading performed by following a procedure approved by the Federal Grain Inspection Service when determining quality factors other than percent germination or protein content; or by the Food and Drug Administration when determining concentrations of mycotoxins or other substances or conditions that are identified as being injurious to human or animal health.

(h) Subjective test—A determination made by a person using olfactory, visual, touch or feel, masticatory, or other senses unless performed by a licensed grain grader; or that uses non-standardized equipment; or that does not follow a procedure approved by the American Society of Brewing Chemists, the Federal Grain Inspection Service, or the Food and Drug Administration.

(i) Unit—All insurable acreage of approved malting varieties in the county on the date coverage begins for the crop year.

Option A—(Available for Producers of Production Contracted After the Sales Closing Date, Non-Contracted Production, or a Combination of Contracted and Non-Contracted Production)

This option provides coverage for malting barley production and quality losses at a price per bushel greater than that offered under the Small Grains Crop Provisions.

1. To be eligible for coverage under this option, you must provide us acceptable records of your sales of malting barley and the number of acres planted to malting varieties for at least the four crop years in your APH database prior to the crop year immediately preceding the current crop year. For example, to determine your production guarantee for the 1996 crop year, records must be provided for the 1991 through the 1994 crop years, if malting barley varieties were planted in each of those crop years. Failure to provide acceptable records or reports as required herein will make you ineligible for coverage under this endorsement. You must provide these records to us no later than the production reporting date specified in the Common Crop Insurance Policy (§ 457.8).

2. Your malting barley production guarantee per acre will be the lesser of:

(a) The production guarantee for feed barley for acreage planted to approved malting varieties calculated in accordance with the Small Grains Crop Provisions and APH regulations; or

(b) A production guarantee calculated in accordance with APH procedures using the malting barley sales and acreage records provided by you.

3. The additional value price per bushel elected cannot exceed the maximum price designated in the Special Provisions.

4. The amount of production to count against your malting barley production guarantee will be determined as follows:

(a) Production to count will include all:

(1) Appraised production determined in accordance with sections 11(c)(1) (i) and (ii) of the Small Grains Crop Provisions;

(2) Harvested production and potential unharvested production that meets, or would meet if properly handled;

(i) Tolerances established by the Food and Drug Administration or other public health organization of the United States for substances or conditions, including mycotoxins, that are identified as being injurious to human health; and

(ii) The following quality standards, as applicable:

	Six-rowed malting barley (percent)	Two-rowed malting barley (percent)
Protein (dry basis).	14.0 maximum.	14.0 maximum
Plump kernels.	65.0 minimum.	75.0 minimum
Thin kernels .	10.0 maximum.	10.0 maximum
Germination .	95.0 minimum.	95.0 minimum
Blight damaged.	4.0 maximum	4.0 maximum
Injured by mold.	5.0 maximum	5.0 maximum
Mold damaged.	0.4 maximum	0.4 maximum
Sprout damaged.	1.0 maximum	1.0 maximum
Injured by frost.	5.0 maximum	5.0 maximum
Frost damaged.	0.4 maximum	0.4 maximum

(3) Harvested production that does not meet the quality standards contained in section 4(a)(2) of this Option, but is accepted by a buyer for malting purposes. For such production, the production to count may be reduced or the price used to settle the claim may be adjusted in accordance with sections 4 (b), (c), and (d) of this Option.

(b) The quantity of production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley (except production included in section 4(c)), may be reduced as described in this subsection, provided the failure of such production to meet these standards is due to insurable causes. The production to count of production sold under section 4(a)(3) will be determined by:

(1) Adding the maximum barley price election under the Small Grains Crop Provisions and the maximum additional value price;

(2) Dividing the result of paragraph (1) by the price per bushel received for the damaged production; and

(3) Multiplying the result of paragraph (2) (not to exceed 1.000) by the number of bushels of damaged production.

(c) The production to count for production that initially fails any quality standard contained in section 4 (a)(2), sold as malting barley, but is conditioned before the sale will not be reduced under section 4(b). Such production will be considered separately from all other production to count. (See section 5(d).)

(d) The additional value price election per bushel used to determine the value of the production to count for production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley, may be reduced by the cost incurred for any conditioning required to improve the quality of production so that it is marketable as malting barley, provided the failure of such production to meet these standards is due to insurable causes.

(e) No reduction in the production to count or the additional value price election will be allowed for moisture content, damage due to uninsured causes; costs or reduced value associated with drying, handling, processing, or quality factors other than those contained in section 4(a)(2) of this Option; or any other costs associated with normal handling and marketing of malting barely.

(f) All grade and quality determinations must be based on the results of objective tests. No indemnity will be paid for any loss established by subjective tests. We may obtain one or more samples of the insured crop and have tests performed at an official grain inspection location established under the U.S. Grain Standards Act or laboratory of our choice to verify the results of any test. In the event of a conflict in the test results, our results will determine the amount of production to count.

5. In the event of loss or damage covered by this policy, we will settle your claim by:

(a) Multiplying the insured acreage times your malting barley production guarantee per acre;

(b) Multiplying the result in subsection (a) of this section times your additional value price election per bushel;

(c) Multiplying the number of bushels of production to count determined in accordance with sections 4(a) and (b) of this Option times your elected additional value price per bushel;

(d) Multiplying the production to count determined under section 4(c) of this Option times the additional value price per bushel determined in section 4(d) of the Option;

(e) Adding the results of subsections (c) and (d) of this section;

(f) Subtracting the result of subsection (e) of this section from the result in subsection (b); and

(g) Multiplying the result of subsection (f) of this section times your share.

6. For example, assume you insure two units of barley under the Small Grains Crop Provisions in which you have a 100% share and that are planted to approved malting varieties. Assume the following:

(a) Each unit contains 40 acres;

(b) You have sold an average of 20 bushels per acre of malting barley for each of the last 6 years;

(c) You have selected the 70 percent coverage level;

(d) Your production guarantee under the Small Grains Crop Provisions and the APH regulations for feed barley is 30 bushels per acre;

(e) Your total production from all units under the Small Grains Crop Provisions is

1,000 bushels, all of which fails to meet the quality standards specified by this Option. Two hundred bushels are sold for malting purposes after conditioning. Conditioning costs are $0.05 per bushel; and

(f) Your additional value price election is $0.40 per bushel.

Your malting barley production guarantee is 1120.0 bushels (the lesser of 20 or 30×70 percent coverage level ×80 acres). The value of your production guarantee is $448.00 (1120 bushels ×$0.40 per bushel). Your production to count is 200 bushels. The value of your production to count is $70.00 (200 bushels ×$0.35 ($0.40—$0.05)). Your indemnity for the malting barley unit is $378.00 (($448.00—$70.00) ×100 percent share). Any remaining loss is paid under the Small Grains Crop Provisions for feed barley.

Option B—(Available for Producers of Contracted Production Only)

This option provides coverage for malting barley production and quality losses at a price per bushel greater than that offered under the Small Grains Crop Provisions provided you have a malting barley contract.

1. If you elect this option you must provide us a copy of your malting barley contract on or before the acreage reporting date. All terms and conditions of the contract, including the contract price or futures contract premium price, must be specified in the contract and be effective on or before the acreage reporting date. If you fail to timely provide the contract, or any terms are omitted, we may elect to determine the relevant information necessary for insurance under this Option (B), or deny liability. Only contracted production or acreage is covered by this Option (B).

2. Your malting barley guarantee per acre will be the lesser of:

(a) The production guarantee for feed barley for acreage planted to approved malting barley varieties calculated in accordance with the Small Grains Crop Provisions and APH regulations; or

(b) The number of bushels obtained by:

(1) Dividing the number of bushels of contracted production by the number of acres planted to approved malting varieties in the current crop year; and

(2) Multiplying the result by the percentage for the coverage level you elected under the Small Grains Crop Provisions.

3. The additional value price election per bushel will be the lesser of, as applicable:

(a) The guaranteed sale price per bushel established in the malting barley contract (without regard to discounts or incentives that may apply) minus the maximum price election for feed barley; or

(b) The premium price per bushel (without regard to discounts or incentives) if the sale price is based on a future market price as specified in the malting barley contract.

Under no circumstances will the additional value price election per bushel exceed $2.00 per bushel.

4. The amount of production to count against your malting barley production guarantee will be determined as follows:

(a) Production to count will include all:

(1) Appraised production determined in accordance with sections 11(c)(1) (i) and (ii) of the Small Grains Crop Provisions;

(2) Harvested production and potential unharvested production that meets, or would meet if properly handled, the minimum acceptance standards contained in the malting barley contract for protein, plump kernels, thin kernels, germination, blight damage, mold injury or damage, sprout damage, frost injury or damage, and mycotoxins or other substances or conditions identified by the Food and Drug Administration or other public health organization of the United States as being injurious to human health, or the following quality standards as applicable:

	Six-rowed malting barley	Two-rowed malting barley
	(percent)	(percent)
Protein (dry basis).	14.0 maximum.	14.0 maximum
Plump kernels.	65.0 minimum.	75.0 minimum
Thin kernels .	10.0 maximum.	10.0 maximum
Germination .	95.0 minimum.	95.0 minimum
Blight damaged.	4.0 maximum	4.0 maximum
Injured by mold.	5.0 maximum	5.0 maximum
Mold damaged.	0.4 maximum	0.4 maximum
Sprout damaged.	1.0 maximum	1.0 maximum
Injured by frost.	5.0 maximum	5.0 maximum
Frost damaged.	0.4 maximum	0.4 maximum

(3) Harvested production that does not meet the quality standards contained in section 4(a)(2) of this Option, but is accepted by a buyer for malting purposes. For such production, the production to count may be reduced or the price used to settle the claim may be adjusted in accordance with sections 4 (b), (c), and (d) of this Option.

(b) The quantity of production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley (except production included in section 4(c)), may be reduced as described in this subsection, provided the failure of such production to meet these standards is due to insurable causes. The production to count of production sold under section 4(a)(3) will be determined by:

(1) Adding the maximum barley price election under the Small Grains Crop Provisions and the maximum additional value price;

(2) Dividing the result of paragraph (1) by the price per bushel received for the damaged production; and

(3i) Multiplying the result of paragraph (2) (not to exceed 1.000) by the number of bushels of damaged production.

(c) The production to count for production that initially fails any quality standard contained in section 4(a)(2), sold as malting barley, but is conditioned before the sale will not be reduced under section 4(b). Such production will be considered separately from all other production to count. (See section 5(d).)

(d) The additional value price election per bushel used to determine the value of the production to count for production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley, may be reduced by the cost incurred for any conditioning required to improve the quality of production so that it is marketable as malting barley, provided the failure of such production to meet these standards is due to insurable causes.

(e) No reduction in the production to count or the additional value price election will be allowed for moisture content, damage due to uninsured causes; costs or reduced value associated with drying, handling, processing, or quality factors other than those contained in section 4(a)(2) of this Option; or any other costs associated with normal handling and marketing of malting barely.

(f) All grade and quality determinations must be based on the results of objective tests. No indemnity will be paid for any loss established by subjective tests. We may obtain one or more samples of the insured crop and have tests performed at an official grain inspection location established under the U.S. Grain Standards Act or laboratory of our choice to verify the results of any test. In the event of a conflict in the test results, our results will determine the amount of production to count.

5. In the event of loss or damage covered by this policy, we will settle your claim by:

(a) Multiplying the insured acreage times your malting barley production guarantee per acre;

(b) Multiplying the result in subsection (a) of this section times your additional value price election per bushel;

(c) Multiplying the number of bushels of production to count determined in accordance with sections 4 (a) and (b) of this Option times your elected additional value price per bushel;

(d) Multiplying the production to count determined under section 4(c) of this Option times the additional value price per bushel determined in section 4(d) of the Option;

(e) Adding the results of subsections (c) and (d) of this section;

(f) Subtracting the result of subsection (e) of this section from the result in subsection (b); and

(g) Multiplying the result of subsection (f) of this section times your share.

6. For example, assume you insure two units of barley under the Small Grains Crop Provisions in which you have a 100% share and that are planted to approved malting varieties. Assume the following:

(a) Each unit contains 40 acres;

(b) You have a contract for the sale of 2500 bushels of malting barley;

(c) You have selected the 70 percent coverage level;

(d) Your production guarantee under the Small Grains Crop Provisions and the APH regulations for feed barley is 35 bushels per acre;

(e) Your total production from all units under the Small Grains Crop Provisions is 1,000 bushels, all of which fails to meet the quality standards specified by this Option.

Two hundred bushels are sold for malting purposes after conditioning. Conditioning cost $0.05 per bushel; and

(f) Your additional value price election is $0.60 per bushel.

Your malting barley production guarantee is 1750.0 bushels (the lesser of 35 or 21.875 (2500 contracted bushels ÷80 acres x 70 percent coverage) x 80 acres). The value of your production guarantee is $1050.00 (1750 bushels x $0.60 per bushel). Your production to count is 200 bushels. The value of your production to count is $110.00 (200 bushels x $0.55 ($0.60—$0.05)). Your indemnity for the malting barley unit is $940.00 (($1050.00—$110.00) x 100 percent share). Any remaining loss is paid under the Small Grains Crop Provisions for feed barley.

Done in Washington, D.C., on March 1, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–5383 Filed 3–4–96; 1:01 pm]

BILLING CODE 3410–FA–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

[INS No. 1716–95]

RIN 1115–AE13

Order to Show Cause and Notice of Hearing; Apprehension, Custody and Detention

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends existing Immigration and Naturalization Service (Service) regulations, by adding the position of institutional hearing program director to the list of Immigration and Naturalization Service officials authorized to issue orders to show cause and warrants of arrest. This is an internal change only and is necessitated by the placement of Service special agents at correctional institution sites to process criminal aliens for deportation proceedings. The modification is intended to facilitate the processing of incarcerated criminal aliens. The position of patrol agent in charge is also being added to the list of officials authorized to issue orders to show cause and warrants of arrest. This change will allow the Service to obtain more efficient use of its personnel and resources and is in keeping with current organizational command structure and program responsibility with a Border Patrol sector. This rule also deletes positions from the list of officials authorized to issue orders to show cause and warrants of arrest which are no longer necessary.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: Ira L. Frank, Senior Special Agent, Investigations Division, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536, telephone: (202) 514–0747.

SUPPLEMENTARY INFORMATION: This rule adds the position of institutional hearing program director and patrol agent in charge to the list of Immigration and Naturalization Service officials authorized to issue orders to show cause, thereby initiating deportation proceedings pursuant to 8 CFR 242.1(a). It also amends 8 CFR 242.2(c)(1) to permit the same officials to sign warrants of arrest.

The Institutional Hearing Program (IHP) represents one of the Service's major undertakings to process criminal aliens while they are incarcerated in correctional institutions and to obtain orders of deportation prior to their release from imprisonment. The correctional institutions designated as IHP sites are often geographically situated a great distance from an existing Service office that has an official designated to sign orders to show cause and warrants of arrest. Sending orders to show cause or warrants of arrest to another Service office location frequently causes as unnecessary delay in the processing of the criminal alien. This rule will permit the institutional hearing program director, in charge of a staff at a correctional institution designated as an IHP site, to sign orders to show cause and warrants of arrest.

Frequently, patrol agents in charge are also geographically remote from the sector officials currently authorized to issue orders to show cause and warrants of arrest. The addition of patrol agents in charge to the list of immigration officials authorized to issue orders to show cause and warrants of arrest will allow the Service to obtain more efficient use of its personnel and resources, and is in keeping with current organizational command structure and program responsibility within a Border Patrol sector.

The Service is withdrawing authorization for the Director, Organized Crime Drug Enforcement Task Force (OCDETF), and the Assistant Director, OCDETF (New York, NY; Houston, TX; Los Angeles, CA; and Miami, FL), to issue orders to show cause and warrants of arrest. These organizational positions cease to exist. The Service is also withdrawing authorization for the Assistant Commissioner, Refugees, Asylum and Parole, to issue orders to show cause, because this organizational position no longer exists.

The Service's implementation of this rule as a final rule is based upon the ''good cause'' exception found at 5 U.S.C. 553(b)(B). The reason and the necessity for immediate implementation of this final rule is as follows: This is a rule of agency organization, practice, or procedure and does not include action which goes beyond formality and substantially affects the rights of those over whom the agency exercises authority.

The rule will not have a significant economic impact. It does not affect parties that are small entities.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities as discussed in the Supplemental section of this document.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, § 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 8 CFR Part 242

Administrative practice and procedure, Aliens, Deportation.

Accordingly, part 242 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252a, 1252b, 1254, 1362; 8 CFR part 2.

2. Section 242.1, paragraph (a) is revised to read as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the filing of an order to show cause with the Office of the Immigration Judge, except for an alien who has been admitted to the United States under the provisions of section 217 of the Act and Part 217 of this chapter other than such an alien who has applied for asylum in the United States. In the proceeding, the alien shall be known as the respondent. Orders to show cause may be issued by:

(1) District directors (except foreign);
(2) Deputy district directors (except foreign);
(3) Assistant district directors for investigations;
(4) Deputy assistant district directors for investigations;
(5) Assistant district directors for deportation;
(6) Deputy assistant district directors for deportation;
(7) Assistant district directors for examinations;
(8) Deputy assistant district directors for examinations;
(9) Officers in charge (except foreign);
(10) Assistant officers in charge (except foreign);
(11) Chief patrol agents;
(12) Deputy chief patrol agents;
(13) Associate chief patrol agents;
(14) Assistant chief patrol agents;
(15) Patrol agents in charge;
(16) The Assistant Commissioner, Investigations;
(17) Service center directors;
(18) Supervisory asylum officers; or
(19) Institutional Hearing Program Directors.

* * * * *

3. In § 242.2, paragraph (c)(1) (i) through (xvii) is revised to read as follows:

§ 242.2 Apprehension, custody, and detention.

* * * * *

(c) * * *
(1) * * *
(i) District directors (except foreign);
(ii) Deputy district directors (except foreign);
(iii) Assistant district directors for investigations;
(iv) Deputy assistant district directors for investigations;
(v) Assistant district directors for deportation;
(vi) Deputy assistant district directors for deportation;
(vii) Assistant district directors for examinations;
(viii) Deputy assistant district directors for examinations;
(ix) Officers in charge (except foreign);
(x) Assistant officers in charge (except foreign);
(xi) Chief patrol agents;
(xii) Deputy chief patrol agents;
(xiii) Associate chief patrol agents;
(xiv) Assistant chief patrol agents;
(xv) Patrol agents in charge;
(xvi) The Assistant Commissioner, Investigations; or
(xvii) Institutional Hearing Program Directors.

* * * * *

Dated: February 22, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–5176 Filed 3–5–96; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASO–1]

Removal of Class D and E2 Airspace; Lawrenceville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, withdrawal.

SUMMARY: This action withdraws the final rule published in the Federal Register on January 23, 1996, with an effective date of April 25, 1996. The rule revoked the Class D and E2 airspace at Lawrenceville, GA. The planned opening of a non-federal control tower at the Lawrenceville/Gwinnett County-Briscoe Field Airport was delayed indefinitely due to construction problems. Therefore, the Class D and E2 airspace was not necessary, and action was undertaken to remove this airspace. However, the Gwinnett County Airport Authority has been able to secure a temporary tower until the permanent tower can be completed. Therefore, the Class D and E2 airspace will be necessary, and action to revoke this airspace is being withdrawn.

DATES: The withdrawal is effective March 6, 1996.

FOR FURTHER INFORMATION CONTACT:

Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

Class D and E2 airspace at Lawrenceville, GA, was established to support the planned opening of a non-federal control tower at the Lawrenceville/Gwinnett County-Briscoe Field Airport. Due to construction problems, the opening was delayed indefinitely. Therefore, on January 23, 1996, the FAA published a final rule stating that, since the Class D and E2 airspace was not necessary, the Class D and E2 airspace in the vicinity of the Lawrenceville/Gwinnett County-Briscoe Field Airport was being revoked (61 FR 1705). However, the Gwinnett County Airport Authority has been able to secure a temporary control tower until the permanent control tower can be completed. As a result, the Class D and E2 airspace will be necessary. Therefore, the action to revoke the Class D and E2 airspace at Lawrenceville, GA, is being withdrawn.

Conclusion

In consideration of the action taken to provide the Lawrenceville/Gwinnett County-Briscoe Field Airport with a temporary control tower until the permanent tower is completed, action to revoke the airspace is unnecessary.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Withdrawal of Final Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 96–ASO–1, as published in the Federal Register on January 23, 1996 (61 FR 1705), is hereby withdrawn.

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

Issued in College Park, Georgia, on February 21, 1996.

Benny L. McGlamery,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–5125 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 201 and 284

[Docket No. RM95–4–001; Order No. 581–A]

Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies; Order on Rehearing

Issued February 29, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule; Order on rehearing.

SUMMARY: The Federal Energy Regulatory Commission is issuing an order on the requests for rehearing of Order No. 581, the final rule amending the Commission's Uniform System of Accounts, its forms, and its reports and statements for natural gas companies. In the final rule, the Commission sought to simplify and streamline its requirements to reduce the burden of respondents. The revisions here address issues raised and clarifications requested by parties in this proceeding.

DATES: The revised regulations will become effective April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Erica J. Yanoff, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0708.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document, excluding Appendices A (Revised Pages of FERC Form No. 2) and B (Revised Pages of FERC Form No. 2–A) in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800–856–3720 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

I. Introduction

On September 28, 1995, the Federal Energy Regulatory Commission (Commission) issued Order No. 581, amending its Uniform System of Accounts, its forms, and its reports and statements for natural gas companies.[1] In Order No. 581, the Commission, with respect to the Uniform System of Accounts, addressed the treatment of gas in underground storage reservoirs and in pipelines, and of revenues and gas supply expenses, eliminated all accounts for Nonmajor respondents, and redesignated accounts used only by Major respondents for use by all respondents. The Commission also modified various forms, reports, and statements in an effort to create documents that reflect the current regulatory environment of unbundled pipeline sales for resale at market-based prices and open-access transportation of natural gas. This included changes to, and deletions from, the FERC Form No. 11 (Form No. 11), ''Natural gas pipeline company monthly statement,'' the FERC Form No. 2 (Form No. 2), ''Annual report of Major natural gas companies,'' and the FERC Form No. 2–A (Form No. 2–A), ''Annual report of Nonmajor natural gas companies.''

The Commission also sought to simplify and streamline its requirements to reduce the burden on respondents. Hence, the Commission eliminated certain reporting requirements (as well as a few non-reporting requirements) that were outdated or nonessential in light of current regulation, or were duplicative of other reporting requirements. This included the deletion of the Form No. 8, ''Underground Gas Storage Report.'' At the same time, the Commission imposed new reporting requirements, too, most notably, the electronic Index of Customers.

All of the revisions, especially of Form No. 2, were designed to provide financial, rate, and statistical information on transactions that is more useful than what is currently available to regulatory agencies and other users of the financial statements and reports of natural gas companies.

ANR Pipeline Company and Colorado Interstate Gas Company (ANR/CIG), jointly, and the National Registry of Capacity Rights, Inc. (Registry) request rehearing of Order No. 581.[2] Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (collectively, Columbia) also request rehearing, but do so alternatively, if the Commission does not clarify Order No. 581 as they request. The Interstate Natural Gas Association of America (INGAA), the Natural Gas Supply Association (NGSA), and the PEC Pipeline Group[3] each filed a request for clarification of Order No. 581.

Generally, the issues raised and clarifications requested by these parties concern Order No. 581's holdings with respect to storage accounting in the Uniform System of Accounts, the lack of receipt and delivery point information in the Index of Customers, and the disclosure of commercially sensitive information in the Index of Customers and the discount rate report. In addition, Louis Dreyfus Energy Corp. (Louis Dreyfus) filed a petition for reconsideration of Order No. 581's elimination of the Form No. 8.

This order grants in part, and denies in part, the rehearing requests, denies Louis Dreyfus' petition for reconsideration, and clarifies Order No. 581.

II. Uniform System of Accounts

A. Storage Accounting

1. Accounting for Use of System Gas Under Fixed Asset Model

ANR/CIG request rehearing with respect to the Commission's treatment of new Account 117.4, ''Gas Owed to System Gas.'' In the final rule, the Commission permitted pipelines to account for system gas using either the inventory method or the fixed asset method. For pipelines using the fixed asset method, the Commission adopted accounting provisions which require

[1] Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, 60 FR 53019 (October 11, 1995), II FERC Stats. & Regs. ¶ 20,000 *et seq.* (1995) (regulatory text), III FERC Stats. & Regs. ¶ 31,026 (1995) (preamble). This order on rehearing is a companion to the order on rehearing, issued concurrently in Docket No. RM95–3–001, which concerned amendments to the form and composition of interstate natural gas pipeline tariffs and the filing of rates and charges for the transportation of natural gas. *See* Filing Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, Order No. 582, 60 FR 52960 (October 11, 1995).

[2] ANR/CIG's request is titled ''Request for Rehearing and Clarification.''

[3] The ''PEC Pipeline Group'' refers, collectively, to Panhandle Eastern Pipe Line Company, Trunkline Gas Company, Texas Eastern Transmission Corporation, and Algonquin Gas Transmission Company.

that future encroachments on system gas, resulting from transportation imbalances, no-notice transportation, and other operational needs, be credited to Account 117.4 at the then-current market price of gas, with a corresponding charge to Account 808.1, ''Gas Withdrawn From Storage-Debit.'' The Commission stated that if the volumes withdrawn are used to meet transportation imbalances, Account 806, ''Exchange Gas,'' will be credited and Account 174, ''Miscellaneous Current and Accrued Assets,'' will be debited simultaneously with the entries to the system gas account.[4]

ANR/CIG argue that this accounting treatment will result in a fluctuating balance for Account 117 (the sum of Accounts 117.1, 117.2, 117.3, and 117.4), which is designated as a fixed asset. In order to treat the balance in Account 117 as a fixed asset, and prevent potential monthly fluctuations, which ANR/CIG assert is inconsistent with the nature of a fixed asset, ANR/CIG urge the Commission to establish an additional contra account within the Account 117 series, instead of using the current asset Account 174.

The Commission will not adopt ANR/CIG's suggestion for the following reason. Although the receivable may have originally been generated by the encroachment of system gas, the settlement of the receivable is not dependent on the replacement of the system gas volumes. For example, a customer may ''cash-out'' his receivable with the pipeline in one month, while the pipeline replaces the volumes into storage in another month. The amount of the receivable may also differ from the amount of the encroachment if, e.g., the pipeline revalues its encroachments. Because of the lack of one-to-one correspondence between the receivable and the replacement of the encroachment volumes, the Account 117 series would become misstated if we were to allow recording of the receivable within them. It would also not be appropriate to mix one type of asset (*i.e.*, a receivable) with a completely different type of asset (*i.e.*, system gas volumes).

2. Losses on Settlement of Imbalances

In explaining how the simplified recordkeeping requirements under the fixed asset method should mitigate CNG Transmission Corporation's concerns over the recordkeeping required to calculate imbalance gains or losses, the Commission stated:

For imbalances in which the pipeline has delivered more than the shipper injected at the receipt point, gains (or losses) will be the difference between the cash-out price and the pipeline's purchase cost of replacement gas volumes. For cashed-out imbalances in which the pipeline has delivered less than the shipper has tendered into the pipeline, the gain (or loss) will be the difference between the cash-out price paid by the pipeline and the current price of volumes recorded in Account 117.4.[5]

INGAA asserts that this accounting treatment assumes that all pipelines that elect the fixed asset model use a monthly cash-out, and purchase replacement volumes concurrently. However, INGAA states that some pipelines roll imbalances over month-to-month after assigning a dollar value to the imbalance, and that pipelines do not necessarily purchase or track replacement volumes on a transaction-by-transaction basis.

INGAA argues that it appears that the intended accounting treatment, based on other statements in the final rule under ''Use of System Gas, Fixed Asset Method,''[6] and on the Account 174 and 242 definitions, is for the gain or loss to equal the difference between the cash out (or the current value of gas physically received or delivered) and the imbalance receivable or payable balance. Therefore, INGAA requests that the Commission modify the wording under ''Losses on Settlement of Imbalances'' to be consistent with the intended accounting.

The Commission will not clarify Order No. 581 as requested by INGAA. The final rule correctly stated that the difference between the cash-out price and the pipeline's purchase costs of replacement gas volumes is the amount of the gain or loss on imbalances involving cash-out settlements. Such gain or loss consists of two components: (1) Gain or loss on the settlement of receivables/payables (i.e., the difference between the recorded amount of the receivable/payable and the actual cash-out amount); and (2) gain or loss on the difference between the injection price and the actual cost of replacement gas.

Contrary to INGAA's assertion, the accounting requirements for storage imbalances do not assume that all pipelines settle cash-outs concurrently with the replacement of system gas; the prescribed accounting is designed to accommodate different cash-out settlement dates and replacement dates. For example, if a pipeline recorded a $100 imbalance receivable in month one, and rolled it over to month two, in which it had an additional $200 imbalance receivable, it could settle the $300 receivable (or any part of it) by debiting cash and crediting the receivable, and would recognize a gain or loss on the difference between the recorded amount of receivable and the settlement amount. If the pipeline replaced the gas in month six, it would recognize a gain or loss on the difference between its cost of replacement gas and the accounting value of the storage injection. The gain or loss on the settlement of the receivable and the replacement activity would be reflected in the gain or loss accounts in the period in which they occur. There would be no tracking of gains or losses on transactions for individual customers.

3. Pricing of Losses of System Gas

The Commission stated in Order No. 581 that, under the fixed asset model, ''losses of system gas should be priced at the same rate used to price withdrawals in the month in which the gas loss is recognized (*i.e.*, the current market price of gas available to the utility).''[7] According to Columbia, this is appropriate for accounting for losses of working gas, but not for accounting for losses of cushion gas.

In support, Columbia argues that losses of system gas often occur over long periods of time, and are recognized only after extensive periods of analyses of storage fields. A pipeline may choose not to replace cushion gas losses. Additionally, Columbia maintains that in instances where a pipeline accrues a reserve for cushion gas losses, it would be inappropriate to use a value which differs from the actual cost of the gas. Thus, Columbia requests that the Commission clarify that losses of cushion gas must be recorded at book value, not at the present market value, or in the alternative, grant rehearing on this issue.

Columbia also reiterates its recommendation in its initial comments that the Commission add another subaccount or provision to Account 117.1 to allow for recognition of extraordinary gas storage losses as a reduction of the asset which has incurred the loss. Columbia states that the Commission did not address this issue in the final rule, and therefore, requests rehearing.

The Commission will not clarify Order No. 581 to permit losses of cushion gas to be recorded at book value. Under the fixed asset model, losses of both working gas and cushion gas are accounted for in the same manner—Account 117.4 is credited (and Account 823 is charged) with the current market value of the lost gas. The

[4] III FERC Stats. & Regs. at 31,454–55.

[5] III FERC Stats. & Regs. at 31,459.

[6] Id. at 31,455.

[7] III FERC Stats. & Regs. at 31,459–60.

underlying presumption is that all encroachments of system gas (including gas losses) will be replaced in order to maintain authorized system gas levels.

However, the Commission will grant rehearing, in part, and allow pipelines to credit the system gas accounts (*i.e.*, Account 117.1 or 117.2) directly with the historical cost of the decrease in authorized system gas volumes in the unusual situation where a pipeline determines, and the Commission authorizes, a decrease in system gas volumes (due to, for example, extraordinary storage losses, changes in system operational needs, etc.). The Commission does not believe that it is necessary, though, to create a separate subaccount under Account 117, or include another provision in the regulations to accommodate these unusual occurrences. Because Commission approval is required to change authorized system gas levels, a pipeline should not record permanent reductions in authorized system gas volumes prior to receiving Commission approval. Instead, prior to receiving Commission approval, a pipeline should credit Account 117.4 with the market value of the losses.

4. Use of Customer-Owned Storage Quantities for Balancing

In Columbia's comments to the NOPR, Columbia sought confirmation that entries to Account 117.4 to record encroachments by customers resulting from imbalances, no-notice transportation, and other operational needs should be made only after Columbia has exhausted other options for resolving the encroachments, such as using customer-owned storage quantities. Columbia stated that Account 117.4 should be used only after the balance of all customer gas has been withdrawn, and the only remaining gas belongs to the pipeline. In Order No. 581, the Commission responded:

> Columbia is permitted to borrow the gas from storage because of an arrangement between Columbia and its customers that, consistent with Columbia's tariff, allows Columbia to use its customer's gas for balancing purposes. Thus, Columbia and any other similarly situated pipeline would record amounts in Account 117.4 only after customer gas available to the utility for system balancing purposes has been exhausted. This accounting is appropriate because the pipeline is using its customers' gas to meet imbalances on its transportation system.[8]

Columbia now requests clarification that the Commission's holding in Order No. 581 with respect to the use of customer gas for storage withdrawals, above, will not require Columbia to make revisions to its present tariff. It states that the Commission's language could be interpreted to require that Columbia's present accounting methodology for gas imbalances be conditioned upon specific tariff provisions. Columbia further states that the storage accounting it employs is based upon its system operations as reviewed and accepted by the Commission in its restructuring proceeding. Thus, Columbia seeks confirmation that Order No. 581 approved its storage accounting, and was not intended to require Columbia to revise its current tariff.

Order No. 581 allows Columbia, and similarly situated pipelines, to recognize that gas borrowed from storage (to the extent that there is customer gas in storage) to meet imbalances belongs to the storage customers. This recognition is permissible where there are arrangements between the pipeline and its customer(s), consistent with the pipeline's tariff, that permit the pipeline to use its customer's gas for balancing purposes. In Columbia's case, Rate Schedule FSS specifically provides for customers' storage to be used for extinguishing imbalances arising under the customers' various service agreements:

> Buyer's FSS Inventory under this Rate Schedule shall be increased or decreased by any actual imbalances (actual receipts compared to actual deliveries) created under any other Service Agreement(s) Buyer has with Seller and the imbalance shall be removed from such other Service Agreement(s). Such increase or decrease shall be deemed to be a storage injection or withdrawal under Buyer's FSS Service Agreement.[9]

It was this and similar provisions in Columbia's tariff which prompted the Commission's response in Order No. 581.

However, we clarify that where the pipeline's retained system gas is used for balancing, no-notice service, or other uses associated with maintaining efficient transmission operations, entries to Account No. 117.4 are necessary. Columbia's tariff contains two rate schedules, Rate Schedules NTS and SIT, which rely on Columbia's retained storage.[10]

Further, in the restructuring proceeding, Columbia asserted that retained storage would be used for balancing purposes. As described by the Commission:

> Columbia avers the allocation of retained storage costs to FTS service is appropriate to recognize the use of storage for operational balancing agreements (OBAs) with upstream pipelines. Columbia also argues its retained storage handles the hourly swings of customers and imbalances within tolerance levels. Allocation of retained storage costs thus recognizes system balancing for all services.[11]

Therefore, Columbia (and any similarly situated pipeline) must comply with the applicable Uniform System of Accounts instructions for recording system gas injections and withdrawals whenever it uses its own system gas for balancing, no-notice, or other uses associated with maintaining efficient transmission operations.

Columbia additionally asks the Commission, *assuming arguendo,* that the Commission finds that storage encroachments by customers must be recorded in Account No. 117.4 before all customer gas has been physically withdrawn, to expand the instructions in Account 117.4 to address the accounting treatment of gas resulting from a net overtender position (*i.e.*, when shippers put more gas into the system than they take out). Columbia seeks clarification of the accounting entries required when customers are in an overtendered position, which physically requires an injection of gas into storage.

The Commission believes that overtendered gas should be treated the same as customer contract gas physically held by the pipeline. That is, records of stored volumes should be maintained, but no formal accounting recognition of dollar amounts should be given to the overtendered volumes.

5. Conforming Corrections to Regulation Text

Several parties have identified instances in which the findings and rulings of the Commission, as described in Order No. 581, are not reflected in the text of the new regulations. In those instances, discussed below, the parties maintain that the Part 201 regulations need to be amended accordingly. Also identified below are minor typographical errors.

INGAA and the PEC Pipeline Group state that the use of Account 117.2 to credit withdrawals of storage gas under the inventory method, as permitted by Order No. 581, is not specified in the instructions for Account 808. The Commission will conform the instructions for Account 808.1, Gas

[8] III FERC Stats. & Regs. at 31,460.

[9] Substitute Original Sheet No. 165, Second Revised Volume No. 1 of Columbia's FERC Gas Tariff.

[10] *See* orders addressing Columbia's compliance filings, Columbia Gas Transmission Corporation, 65 FERC ¶ 61,344 at 62,726 (1993) and 64 FERC ¶ 61,060 at 61,528 (1993).

[11] 64 FERC ¶ 61,060 at 61,528 (1993).

Withdrawn from storage-Debit, and Account 808.2, Gas Injected into storage-Credit, to reflect withdrawals and injections of gas under the inventory method of accounting.

INGAA states that the changes in the final rule that explicitly require that storage losses be charged to Account 823 are not reflected in the Part 201 instructions. The Commission will modify the instructions to the text of Account 823, Gas Losses, and the Special Instructions to Accounts 117.1, 117.2 and 117.3, to require losses of gas stored in underground reservoirs to be charged to Account 823.

INGAA and the PEC Pipeline Group state that in the Special Instructions to Accounts 117.1, 117.2, and 117.3, (b) Fixed Asset Method, the first sentence of the fourth paragraph is incomplete, and should be revised to: ''When replacement of the gas is made, the amount carried in Account 117.4 for such volumes must be cleared *with an offsetting entry to* Account 808.2.'' The Commission agrees, and will revise the instruction accordingly.

INGAA and the PEC Pipeline Group state that the last sentence of the instructions to Account 117.4, Gas Owed to System Gas, must be corrected by changing the word ''revolve'' to ''revalue''. The Commission agrees and will revise the instruction accordingly.

B. Shipper-Supplied Gas

1. Recordkeeping

In Order No. 581, the Commission revised the recordkeeping requirements for shipper-supplied fuel to require records to be maintained and readily available for shipper-supplied gas on a rate schedule and zone basis.[12] INGAA requests that the Commission clarify that for companies that calculate shipper-supplied fuel based on delivered volumes, the accounts of retained fuel and unaccounted-for volumes be maintained on the basis of gas delivered, rather than gas received.

The Commission clarifies that it is permissible to maintain records of shipper-supplied gas on the basis of gas delivered or gas received, as appropriate in the circumstances.

2. Conforming Changes to Regulation Text

According to NGSA, Order No. 581 states that ''the value of gas received from shippers under tariff allowances that is not consumed in operations nor returnable to customers through rate tracking mechanisms shall be credited to Account 495, Other Gas Revenues and charged to Account 805.'' [13] However, NGSA states that this language does not appear in the revised regulations. NGSA requests that the Commission clarify this matter by including a statement in the regulations which explicitly requires such accounting treatment.

The Commission will add a new paragraph to the text of Account 805, Other gas purchases, to address the treatment of retained shipper-supplied gas.

C. Revenues

In Order No. 581, the Commission modified the accounting treatment it had proposed for gains and losses on imbalance transactions, in instances where a pipeline's tariff requires such gains and losses to be passed along to customers. Rather than requiring a gain or loss to be initially recorded in Accounts 495 or 813, respectively, the Commission stated that it would require pipelines to record the gain or loss on imbalances directly in Account 254, Other Regulatory Liabilities, or Account 182.3, Other Regulatory Assets, as appropriate.[14]

INGAA and the PEC Pipeline Group argue that the corresponding instructions do not appear in Account 174 of the Balance Sheet Accounts; they state that Account 174 only includes instructions to record all gains and losses from balancing transactions in Accounts 495 and 813, respectively. INGAA and the PEC Pipeline Group request that the Commission clarify the regulations to reflect its decision to record certain gains and losses from imbalance transactions in the deferred accounts, Account 254 and Account 182.3, respectively.

The Commission will not clarify the regulations as requested by the parties. Because the Uniform System of Accounts already provides instructions for accounting for regulatory assets and liabilities,[15] the Commission believes that it is unnecessary to modify the text of Accounts 174, Miscellaneous Current and Accrued Assets, and Account 242, Miscellaneous Current and Accrued Liabilities, to specifically address regulatory assets and liabilities related to imbalances. As with any revenue, expense, gain, or loss that would have been included in net income determinations in one period under the general requirements of the Uniform System of Accounts were it not for the probability that such items would be included in a different period for ratemaking purposes (or, in the case of regulatory liabilities, would be required to be refunded),[16] imbalance gains and losses to be collected from or returned to customers in future rates must be accounted for as regulatory assets and liabilities in accordance with Definition No. 31, and the instructions to Accounts 182.3 and 254 of the Uniform System of Accounts.

D. Gas Supply Expenses

In Order No. 581, the Commission found that the amounts recorded in Account 806, Exchange Gas, should be based on the measurement attribute of the gas received or delivered in the exchange.[17] INGAA and the PEC Pipeline Group maintain that the instructions in the final rule for recording the amounts in Account 806 do not appear in the Account 806 regulations. They assert that in the final rule, the Commission properly stated that if a company is using the inventory method, and the gas delivered in an exchange has been priced on a historical cost basis, the costs to be recorded in Account 806 would be based on the historical cost of the gas. The parties state that the text of the Account 806 regulation states that ''costs are to be determined from the current market price of gas at the time gas is tendered for transportation,'' reflecting a pipeline's use of only the fixed asset method. Therefore, INGAA and the PEC Pipeline Group ask that the regulations for Account 806 be clarified to reflect the appropriate accounting for both the fixed asset *and* the inventory method.

The Commission will modify the text of Account 806 to reflect the use of the inventory method, as well as the use of the fixed asset method.

The PEC Pipeline Group states in Order No. 581, the Commission adopted Panhandle Eastern Pipeline Company's suggestion to move the detailed recordkeeping requirements for cash-out transactions to other accounts.[18] The PEC Pipeline Group argues that paragraph B of the Part 201 instructions for Account 806, establishing the recordkeeping requirement, should be deleted, and the detailed recordkeeping requirements for all balancing transactions should be moved to other accounts (*i.e.*, Account 174, Miscellaneous Current and Accrued Assets, and Account 242, Miscellaneous Current and Accrued Liabilities).

[12] III FERC Stats. & Regs. at 31,463.

[13] *Id.* at 31,461.

[14] *Id.* at 31,464–65.

[15] *See* Definition No. 31 of the Uniform System of Accounts, 18 C.F.R. Part 201 (1995).

[16] This defines ''regulatory assets and liabilities.'' *Id.*

[17] III FERC Stats. & Regs. at 31,466.

[18] *Id.*

In response to Panhandle's comments on the NOPR, the Commission reduced the level of recordkeeping requirements, and moved the instructions for accounting for settlement of imbalance receivables and payables from Account 806 to Accounts 174 and 242, respectively. Included in the new Paragraph B of the instructions to Accounts 174 and 242 is a requirement that pipelines maintain for each party entering gas exchange, load balancing, or no-notice transportation transactions, the quantity and cost of gas delivered and received. This is the same requirement as now appears in paragraph B of Account 806. Therefore, to avoid unnecessary duplication, the Commission will delete paragraph B of Account 806, as requested by the PEC Pipeline Group.

III. Form Nos. 2 and 2–A

Only one corrective change to the Form No. 2 was requested by the parties. INGAA and the PEC Pipeline Group note that on page 220, in Column (e) for Account 117.4, lines 2 and 3 should not be blacked out. Similarly, INGAA states that lines 2 and 3 in Column (b) for Account 117.1 also should not be blacked out. INGAA states that if a pipeline is using the fixed asset method, it will show entries in both Account 117.1 and Account 117.4 for contra accounts Gas Delivered to Storage (line 2) and Gas Withdrawn From Storage (line 3). The Commission agrees that those lines should not be blacked out, and will delete the shading from those lines.

The Commission has identified several other editorial, typographical, and conforming changes that must be made to the Form No. 2, and where applicable, to the Form No. 2–A, also. These changes are listed below, and appear in the revised pages of the forms in Appendices A and B[19] to this order:

General Information—Page i

In section III, paragraph (b), the second sentence of the parenthetical is revised to read: ''Indicate by checking the appropriate box on page 3, * * * .''

In section III, paragraph (c)(i), the word ''aspects'' is revised to ''respects.''

General Information—Page ii

In section III, paragraph (c)(ii), the pages referring to schedule ''Statement of Income'' are revised to ''114–116,'' and the page referring to schedule ''Notes to Financial Statements'' are revised to ''122.''

In section III, paragraph (d), the word ''Branch'' is added to the end of the phrase ''Public Reference and Files Maintenance.''

General Instructions—Page iii

In section IV, paragraph (b), the Commission is omitting the reference to page 4.

List of Schedules (Natural Gas Company)—Page 3

In Column (a), under Income Account Supporting Schedules, the word ''Other'' in the second and third lines is revised to ''Others.'' In addition in Column (a), under Common Section, the page reference for Distribution of Salaries and Wages is revised to ''354–355.''

Comparative Balance Sheet (Assets and Other Debits)—Page 110

The page number reference of 200–201 on line 1 is moved to line 3. The page number reference of 221 on lines 17 and 18 is eliminated. In addition, line 21 is revised to read: ''(For Cost of Account 123.1 See Footnote Page 224, line 40).''

Statement of Income for the Year—Page 116

The account titles on lines 29 through 34 are indented.

Statement of Retained Earnings for the Year—Pages 118–119

On page 118, Columns (b), (c), and (d) for the account title ''UNAPPROPRIATED RETAINED EARNINGS,'' and on lines 2 and 3, are shaded.

On page 119, Column (b), ''Contra Primary Account Affected,'' is eliminated for all lines.

Notes to Financial Statements—Page 122

The Commission is modifying instruction 9 to require explanation for only those *significant* changes in accounting methods made during the year which had an effect on net income.

Gas Plant in Service (Accounts 101,102, 103, and 106)—Pages 204–209

On page 204, the Commission is adding instructions to each line showing a total (*i.e.*, lines 5 and 26), instructions to total the applicable lines. The Commission is also shading Columns (b) and (c) on line 27.

On page 205, the Commission is adding shading to all columns of line 27.

On page 206, the Commission is adding to each line showing a total (*i.e.*, lines 36, 37, 39, 54, 65, 75, and 76), instructions to total the applicable lines.

On page 208, the Commission is adding to each line showing a total (*i.e.*, lines 86, 102, 114, 116, and 121), instructions to total the applicable lines.

On page 209, the Commission is removing the shading on line 119, and adding shading to Column (d) on line 118.

General Description of Construction Overhead Procedure—Page 218

The Commission is adding the word ''the'' at the beginning of instruction 1(a). The title of Column (c), ''Capital Ratio,'' is revised to read ''Capitalization Ratio.'' In addition, the Commission is repositioning the parentheses and brackets in the formulas listed in items 2 and 3 to correctly present the formulas.

Gas Stored (Accounts 117.1, 117.2, 117.3, 117.4, 164.1, 164.2, and 164.3)—Page 220

In addition to deleting the shading on lines 2 and 3 of Columns (b) and (e), the Commission is deleting the parenthetical ''(contra account)'' from lines 2 and 3 of Column (a), and is revising the parenthetical on the last line in instruction 3, to read, ''(*i.e.*, fixed asset method or inventory method).''

Investments in Subsidiary Companies (Account 123.1)—Page 224

After the word ''Total'' on line 40, the Commission is adding the phrase ''Cost of Account 123.1 $_____'' to Column (a), and the word ''Total'' to Column (c).

Other Regulatory Assets (Account 182.3)—Page 232

The title of Column (d) is revised to ''Account Charged.''

Miscellaneous Deferred Debits (Account 186)—Page 233

On line 39, the Commission is adding shading to Columns (c), (d), and (e).

IV. Form No. 8

All natural gas companies operating an underground natural gas storage field have been required to file with the Commission, under section 260.11, a monthly report of its storage activities—the Form No. 8, ''Underground Gas Storage Report.'' In the NOPR, the Commission stated the following, with respect to both section 260.11 and section 260.4 (prescribing the Form No. 14, ''Annual Report for Importers and Exporters of Natural Gas''):

''The Commission is not proposing any substantive changes to these sections in this NOPR. However, the Commission is seeking comments on whether the collection of the information contained in these forms by other governmental or private sources is

[19] These Appendices are not being published in the Federal Register, but are available from the Commission's Public Reference Room.

currently adequate, making the collection of the same information in these Commission forms unnecessary[20]

The Commission received comments indicating that essentially the same storage information is collected by the Department of Energy (DOE) in the more comprehensive Form EIA–191, ''Underground Gas Storage Report.'' In the final rule, the Commission determined that the data from Form EIA–191 could be used to meet the Commission's requirements for storage data in lieu of the Form No. 8 information, and therefore eliminated the requirement to file Form No. 8. The Commission held that elimination of this form was consistent with the overall objective of the rulemaking proceeding to eliminate duplicative reporting requirements.

Louis Dreyfus has filed a petition for reconsideration of the Commission's elimination of the Form No. 8. Louis Dreyfus maintains that the ready availability of the storage-related information reported on Form No. 8 is essential to the continual maturation of the primary and secondary gas transmission and storage markets and to improved natural gas commodity price discovery. Louis Dreyfus argues that the Commission erred in eliminating the Form No. 8 both on substantive grounds, asserting that there is no adequate alternative source from which to obtain the storage capacity and inventory data in the Form No. 8, and on procedural grounds, asserting that the Commission failed to provide notice that it might eliminate the form.

A. Necessity of Form No. 8

Louis Dreyfus argues that the Form EIA–191 is not an exact duplicate of, or adequate substitute for, the FERC Form No. 8, and that the two forms differ radically in their usefulness to the public and as sources of information. Louis Dreyfus states that the information filed in Form EIA–191 is confidential and is never made available to the public on a company-by-company basis, while the company-by-company information contained in Form No. 8 is made public within a few weeks of its submission. It claims that only after a delay is aggregated Form EIA–191 data made available to the public, and that such aggregated data is insufficient to meet its needs as a natural gas marketer.[21]

Louis Dreyfus maintains that without timely access to the information reported in Form No. 8, market participants will be hampered in their efforts to compete fairly in natural gas markets. It argues that marketers, particularly those not affiliated with storage-owning pipelines, must be able to evaluate the state of storage capacity and storage balances in pricing their products. It claims that marketers lacking the data formerly collected and made publicly available through Form 8 will be at a disadvantage to marketers that can gain access to storage-related information.Louis Dreyfus also argues that any efforts by DOE to have the confidentiality requirements of Form EIA–191 removed, which the Commission endorsed in Order No. 581, are unlikely to succeed. In its comments to the NOPR, DOE stated that the opposition to having the confidentiality requirements lifted that was voiced when DOE attempted to do so in 1993, may have decreased with the implementation of Order No. 636. However, Louis Dreyfus argues that that opposition was based on the position that Order No. 636 and increased competition were the precise reasons why data on storage field performance by reservoir must not be made public.

Most of the reporting requirements under review in this rule exist in large part to enable the Commission to carry out its regulatory mission. They are intended to provide the Commission with the information it needs to conduct its regulatory review activities. Accordingly, one of the Commission's main goals in this rulemaking proceeding has been to eliminate filing requirements that may be unnecessary to meet the Commission's regulatory responsibilities, either because they are duplicative, or outdated, or because of other reasons. In keeping with this goal, the Commission determined in Order No. 581 that Form No. 8 and Form EIA–191 are similar enough that it is unnecessary for both DOE and the Commission to require the reporting of the information contained in those forms. The Commission further found that it could eliminate Form No. 8 and use the data collected in Form EIA–191 to meet its regulatory needs.

Moreover, the Energy Information Administration (EIA), within DOE, is subject to a statutory obligation to collect and publish energy information and statistics.[22] The information that is collected by the EIA must be ''promptly provide[d]'' to other offices within DOE when requested.[23] Thus, the Commission is confident that it will be able to readily obtain the storage data in Form EIA–191 when needed, and therefore, that replacing the Form No. 8 data collection with access to storage data through the Form EIA–191 will be adequate to meet the Commission's needs.

With respect to Louis Dreyfus' needs, Louis Dreyfus complains that the Form EIA–191 data is insufficient for its purposes because the EIA only makes publicly available aggregated storage data from the Form EIA–191 due to the confidentiality restrictions, and because such data is not company-specific. However, the EIA is under an obligation, upon request to ''promptly [make] available to the public in a form and manner easily adaptable for public use'' the information that it collects.[24] Louis Dreyfus is free to pursue any changes to the EIA's publication of the EIA–191 data with the EIA.

B. Adequacy of Notice Provided

Louis Dreyfus asks that the Commission exercise its discretion to reconsider the elimination of Form No. 8 in light of the alleged lack of notice

[20] IV FERC Stats. & Regs. ¶ 32,512 at 33,017.

[21] The Form No. 8 collects monthly pipeline storage data such as injections, withdrawals, and balances. This data in the Form No. 8 is reported on a company-by-company basis, aggregating all storage fields operated by a company. Reservoir capacity and ownership is reported separately by storage field. The Form EIA–191 collects monthly data on the location and operations of all active underground natural gas storage fields, such as injections, withdrawals, base gas, working gas, and peak day withdrawals. It also collects annual data on the capacity, type of facility, maximum deliverability, and pipelines to which the field is connected. Thus, the Form EIA–191 is more comprehensive, and collects the data by reservoir. However, the Form EIA–191 is subject to certain confidentiality requirements, and therefore is not public information. DOE does, though, aggregate the Form EIA–191 data by geographical jurisdiction, and makes that aggregated data available publicly.

[22] Section 205(a)(2) of the Department of Energy Organization Act provides that the Administrator of EIA shall be responsible for carrying out a central comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

42 U.S.C.A. § 7135(a)(2) (1995).

[23] Section 205(f) states: The Administrator shall, upon request, promptly provide any information or analysis in his possession pursuant to this section to any other administration, commission, or office within the Department which such administration, commission or office determines relates to the functions of such administration, commission, or office.

42 U.S.C.A. § 7135(f) (1995).

[24] Section 205(g) of the Department of Energy Organization Act provides, in pertinent part:

''Information collected by the Energy Information Administration shall be cataloged and, upon request, any such information shall be promptly made available to the public in a form and manner easily adaptable for public use, except that this subsection shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of Title 5, United States Code.

42 U.S.C.A. § 7135(g) (1995).

afforded to it. Louis Dreyfus states that the Commission never suggested in the NOPR that it might eliminate the Form No. 8 filing requirement, but rather ''reassured potentially interested parties that the Form No. 8 reporting requirements were 'not on the table' for elimination.'' [25] Louis Dreyfus argues that the Commission's failure to provide any notice of the possibility that it could wholly eliminate the Form No. 8 reporting requirement, or to provide an adequate comment period for all interested parties to express their concerns about such proposal, violates the provisions of Section 553 of the Administrative Procedure Act (APA),[26] and applicable case law. As a remedy for Order No. 581's alleged legal error in eliminating the Form No. 8 without adequate notice, Louis Dreyfus argues that the Commission must reinstate the Form No. 8 reporting requirements, or in the alternative, reopen the matter by issuing a supplemental notice of proposed rulemaking that proposes the elimination of Form No. 8 and invites comments thereon.

The Commission denies Louis Dreyfus' request for reconsideration. The primary purpose of the notice requirement under Section 553(b) of the APA is to provide an opportunity for the public to participate in the rulemaking process through a commenting procedure. The purpose of section 553 of the APA has been met by the notice given in the NOPR with respect to the Form No. 8. While the Commission did not explicitly propose to eliminate the Form No. 8, the notice provided was adequate under the APA to justify elimination because the Commission expressly invited parties to comment on whether the collection of the Form No. 8 information is unnecessary. In so doing, the notice raised the issue of the necessity and continuing existence of the Form No. 8, and gave interested parties an opportunity to comment on that issue. Given the goal of the rulemaking proceeding to simplify and streamline its regulations to reduce the reporting burden, the reasonable implication from the Commission's invitation for comments was that if commenters advised the Commission that the collection of storage information in the Form No. 8 was unnecessary because the collection of the same information by other entities was adequate, the Commission would eliminate the Form No. 8. Thus, the notice did indeed raise the prospect of a potential elimination of the Form No. 8.

The notice with respect to the Form 8 was also adequate under applicable case law. Louis Dreyfus argues that courts have found notice of an adopted change to be inadequate in cases such as this one, where ''there were major substantive differences between the proposed rule and the rule adopted.'' [27] However, substantive differences between a proposed and final rule do not always invalidate the final rule for lack of notice. The standard generally invoked by the courts with respect to the sufficiency of notice, where the final rule differs from the proposed rule, is that if the rule finally adopted is a ''logical outgrowth'' of, or is ''in character with,'' the proposed rule, the rulemaking proceeding, or the comments received, a second notice and comment period is unnecessary, and the final rule will not be invalidated. [28] However, ''if the final rule deviates too sharply from the proposal, affected parties will be deprived of notice and an opportunity to respond to the proposal.'' [29]

In this case, the elimination of Form No. 8 as an unnecessary reporting requirement is a ''logical outgrowth'' of, and ''in character with'' the nature of the proposed rule, which was designed to simplify and streamline the Commission's reporting requirements in an effort to reduce the reporting burden, as well as with the comments received. In the NOPR, the Commission proposed to eliminate numerous unnecessary reporting requirements because they were ''outdated or nonessential in light of current regulation, or [were] duplicative of other reporting requirements.'' [30] Thus, the Commission's action taken in eliminating the Form No. 8 fell within the general rubric, or ''original scheme'' of the NOPR, and Louis Dreyfus should have anticipated that elimination of the Form No. 8 was possible.

Moreover, in determining whether a final rule is a ''logical outgrowth'' of a proposed rule, ''the key focus is on whether the purposes of notice and comment have been adequately served.'' [31] In this case, parties were given an adequate opportunity to comment on the Form No. 8, specifically on its relationship to other sources of storage information, and its necessity. Five parties did, in fact, comment in favor of the elimination of the Form No. 8 reporting requirement, indicating that they understood what was being proposed. Louis Dreyfus had the same opportunity to comment on the retention of the Form No. 8, but chose to ignore the Commission's request.

Louis Dreyfus claims that it relied on the Commission's statement that it was ''not proposing any substantive changes to [the Form No. 8] in this NOPR.'' It claims that such reliance is the reason it failed to comment prior to the final rule, and the reason that it was unaware of the Commission's ''surprise repeal'' of the Form No. 8 in time to file a timely rehearing request. [32]

That statement in the NOPR, taken alone, would have indicated to the public that no substantive changes would appear in the final rule. However, read together with the NOPR's invitation for comments on whether the Form No. 8 might be unnecessary, the statement put the public on notice that the Commission was contemplating eliminating the form; the solicitation for comments following the statement conveyed to the public that the Commission did not yet have enough information upon which to propose the elimination of the form, but that it

[25] Petition for Reconsideration at 5.

[26] Section 553(b) of the APA requires that an agency's notice of proposed rulemaking provide ''either the terms or substance of the proposed rule or a description of the subjects and issues involved.'' 5 U.S.C. § 553(b)(3) (1994).

[27] Chrysler Corporation v. Dept. of Transportation, 515 F.2d 1053, 1061 (6th Cir. 1975). Louis Dreyfus cites other cases, as well, stressing the importance of specificity in agency notice. *See* Petition for Reconsideration at 4–5.

[28] Shell Oil Company v. EPA, 950 F.2d 741, 750–51 (D.C. Cir. 1991) (citations omitted) (''An agency, of course, may promulgate final rules that differ from the proposed regulations. To avoid 'the absurdity that * * * the agency can learn from the comments on its proposals only at the peril of starting a new procedural round of commentary,'' we have held that final rules need only be a ''logical outgrowth'' of the proposed regulations.''); Rybachek v. U.S. EPA, 904 F.2d 1276, 1287–88 (9th Cir. 1990) (''[T]he fact that a final rule varies from a proposal, even substantially, does not automatically void the regulations. Rather, we must determine whether the * * * final rule was in character with the original proposal and a logical outgrowth of the notice and comments received.''); City of Stoughton, Wisconsin v. U.S. EPA, 858 F.2d 747, 753 (D.C. Cir. 1988) (''[A]n agency may promulgate a final rule that differs from its proposed rule without allowing further comment if the relevant changes are a 'logical outgrowth'' of the proposed rule and the notice and comments upon it.''); Natural Resources Defense Council, Inc. v. U.S. EPA, 824 F.2d 1258, 1283 (1st Cir. 1987) (citations omitted) (''An agency can make even substantial changes from the proposed version, as long as the final changes are 'in character with the original scheme' and a 'logical outgrowth' of the notice and comment.'').

[29] Small Refiner Lead Phase-Down Task Force v. U.S. EPA, 705 F.2d 506, 547 (D.C. Cir. 1983).

[30] IV Stats. & Regs. ¶ 32,512 at 32,996.

[31] Fertilizer Institute v. U.S. EPA, 935 F.2d 1303, 1311 (D.C. Cir. 1991) (citations omitted) (''This means that a final rule will be deemed to be the logical outgrowth of a proposed rule if a new round of notice and comment would not provide commenters with 'their first occasion to offer new and difference criticisms which the agency might find convincing.' ''); *see* Small Refiner Lead Phase-Down Task Force v. U.S. EPA, 705 F.2d at 547.

[32] Petition for Reconsideration at 8. Louis Dreyfus states that it learned of the elimination of the Form No. 8 from reading the trade press.

simply needed comments to fully and carefully consider the issue.

The Commission finds that reinstatement of the Form No. 8 on procedural grounds is unwarranted. Similarly, Louis Dreyfus' request in the alternative for reconsideration of the Form No. 8 issue through additional notice and comment procedures is denied. The Commission has already reconsidered the issue on the merits, *supra*, based on Louis Dreyfus' petition for reconsideration, and has determined that the Form No. 8 will not be reinstated.

V. Discount Rate Report

A. Disclosure of Commercially Sensitive Information

In their comments to the NOPR, ANR/CIG objected to the public disclosure of the customer-specific data that was included in the proposed discount report. The discount report that was proposed in section 284.7(c)(6) represented a combination of the requirements contained in the existing discount reporting and maintenance provisions in section 284.7(d)(5)(iv) and 250.16(d), and thus, required expanded public reporting of discount information. The proposed discount report included: (1) The shipper's contract number (for all discounts on firm transportation); (2) any affiliate role in the transaction; (3) the quantity of gas delivered during the billing period at the discounted rate; and (4) the zone of delivery (for interruptible). ANR/CIG argued that the disclosure of much of the information in the discount report would cause competitive harm to both pipelines and their customers. Therefore, ANR/CIG sought the elimination of the discount report, or at a minimum, the deletion of the contract number, affiliate's role, quantities delivered, and delivery zone.

The Commission heard the concerns of ANR/CIG and other commenters regarding the release of sensitive commercial information, and consequently, abandoned its proposal for an expanded discount reporting requirement under section 284.7. Thus, the Commission eliminated many of the proposed data elements from the discount report, and limited the information required to be filed to the discount data that was currently required to be filed under existing section 284.7(d)(5)(iv). [33] However, on rehearing, ANR/CIG request that the Commission reconsider its decision to require disclosure of the information that was retained; essentially, ANR/CIG continue to seek elimination of the requirement that pipelines file discount rate reports.

By retaining the existing discount rate report requirement, the Commission has already met ANR/CIG's original, alternative request that the contract number, affiliate's role, quantities delivered, and delivery zone be eliminated from the discount report. The Commission, however, will not go one step further and eliminate entirely the discount rate report.

The purpose of the discount rate report is to ensure that discounts are offered on a nondiscriminatory basis. The public disclosure of the discount rate information is a critical element of the requirement to produce the data; it enables the discount report to achieve the purposes for which it was designed. Public reporting permits the Commission, as well as other interested parties, to maintain a vigil against discriminatory pricing. Making it more difficult to access this information will diminish the ability of the Commission and the public to discover problem deals. This concept was supported by the United States Court of Appeals for the D.C. Circuit when it condoned rate discounting:

> The reporting system will enable the Commission to monitor behavior and to act promptly when it or another party detects behavior arguably falling under the bans of [sections] 4 and 5. [34]

B. Customer Codes

At a minimum, if the Commission continues to require the filing of a discount rate report, ANR/CIG request that in all instances where customer-specific information is sought, the Commission permit pipelines, at their option, to use a customer code to identify customers. ANR/CIG state that each customer would be apprised of its customer code, and the code would be used consistently in all filings where customer information is required. ANR/CIG argue that if the need arises to identify any customer in any proceeding, that information could be sought in discovery, and such need evaluated on a case-by-case basis. Thus, ANR/CIG support the use of customer codes, rather than shipper names. For example, ANR/CIG assert that the provision of customer-specific information in the discount report, identified by customer code, with an identification of which codes represent affiliates of the pipeline, would be equally useful as a discount report containing the full name of the shipper.

The Commission will not permit the use of customer codes in place of the full legal name of the shipper in the discount rate report. As noted above, the key purpose of the discount rate report is to enable shippers to determine whether a pipeline has offered a discount to a similarly situated shipper. Since under ANG/CIG's proposal, only the shipper receiving the discount would know its code, other shippers would be unable to determine whether the discount given was to a ''similarly situated'' shipper. In other words, shippers need to know the name of the shipper being given a discount to evaluate if they are similarly situated. Therefore, the substitution of a secret code for the name of the shipper will thwart the purpose of the discount rate report, and the collection of the discount rate data will become useless.

VI. Index of Customers

A. Receipt Point Data

In Order No. 581, the Commission required interstate pipelines transporting gas under subparts B and G to establish an Index of Customers through a downloadable electronic file. Under new section 284.106(c), on the first day of each calendar quarter, the electronic Index of Customers must be posted on the pipeline's electronic bulletin board (EBB), and filed with the Commission in electronic form. A paper copy of the Index is not required to be filed.

The Index of Customers, as finally adopted by Order No. 581, contains for all firm customers under contract as of the first day of the calendar quarter, the full legal name of the shipper, the rate schedule number for which service is contracted, the contract effective and expiration dates, and the maximum daily contract quantities. This is a more limited Index of Customers than the Index of Customers that was proposed in the NOPR. The proposed Index had included a number of additional data elements, including the receipt and delivery points associated with the shippers' maximum daily quantities (MDQs).[35]

However, in light of the primary goal of the rulemaking proceeding to eliminate unnecessary regulations, and in response to comments that much of the proposed information was commercially sensitive, and that its disclosure would be harmful and

[33] The discount rate report adopted in new section 284.7(c)(6) contains the name of the shipper, the corporate affiliation between the shipper and the transporting pipeline, the maximum rate or fee, and the rate or fee actually charge during the billing period.

[34] Associated Gas Distributors v. FERC, 824 F.2d 981, 1009. (D.C. Cir. 1987).

[35] IV Stats. & Regs. ¶ 32,512 at 33,039.

burdensome, the Commission reconsidered the regulatory need for the information in the proposed Index. The Commission found that many items, such as the receipt and delivery points, extended beyond that which the Commission needs to receive from all pipelines on a regular basis to regulate the natural gas industry today. Thus, in the final rule, the Commission eliminated such items, reducing the information contained in the proposed Index of Customers to only that information absolutely necessary for the Commission's regulatory purposes.

On rehearing, the Registry argues that capacity information at receipt and delivery points must be included in the Index of Customers because it is crucial to the development and functioning of the capacity market. The Registry states that point rights define the location, nature, and extent of capacity rights, and are the only way to determine segment rights. It argues that knowing the quantity of rights in a contract alone is useful neither to shippers, nor to regulators. The Registry argues that the Commission's deletion of point rights information from the Index of Customers will ensure that the capacity release market will function improperly, and that in taking such action, the Commission has abdicated its responsibility to protect the public interest.

The Registry analogizes the operation of the capacity release market without disclosure of point rights to the operation of the securities market without disclosure of the quantity of stocks or bonds available in each class, or disclosure of their maturity, rate, and redemption/conversion terms. The Registry uses this analogy to argue that absent access to point information, the capacity release market will fail, since the securities market failed due to a lack of confidence, prior to securities registration.

In a nutshell, the Registry explains that if users cannot identify the quantity of rights that they own to move gas into and out of a point relative to the quantity of rights others own to move gas into and out of the pipeline at the same and other locations, shippers will not know the value of their capacity and will discount the value they ascribe to owning the pipeline's capacity. In other words, without the availability of point quantity information, there is no method for market participants to monitor the quantity of rights sold or available for sale, or to measure the relative amount of rights held in relation to the total of rights. The Registry asserts that this lack of knowledge of the true value of capacity in the capacity release market will lead to a lack of confidence in the market and in the real value of capacity rights.

According to the Registry, a lack of confidence in the capacity market will lead to an avoidance of long-term commitments, which in turn, will result in an unhealthy gas market and market failure. The Registry argues that a healthy gas business is in the public interest, and that it is the Commission's fundamental role and responsibility to provide confidence in, and contribute to, a healthy, functioning natural gas market, and to thereby protect consumers.

Finally, the Registry argues that receipt and delivery point information is not overly burdensome or needless; it argues point data is essential, otherwise the market will fail, and heavy-handed regulation will return. The Registry believes that this information is most likely currently contained in one or more computerized databases and/or control systems operating at the pipelines, since pipelines need this information to determine releases and valid nominations for the flow of gas. According to the Registry, the only tool necessary to ''publish'' this information would be an electronic application to extract the information from the computerized system it is contained in, and to place it into the defined format for download. Since this application has to be developed anyway to supply the rest of the information contained in the Index of Customers, argues the Registry, the marginal cost to extract and include point level information in the application is far less than the benefits to the natural gas market of having the information available.

In the final rule, the Commission found that it was unpersuaded that it should require pipelines to maintain a comprehensive list of capacity rights by receipt and delivery points to aid the secondary capacity market, or to assist third-party-run exchanges and market center developers. The Commission stated that it was not clear what practical effect providing the proposed receipt and delivery point information would have on the secondary market. The Commission remains unpersuaded that inclusion of capacity information by receipt and delivery points in the Index of Customers is essential to the continued viability of the capacity market.

One of the goals of this rulemaking proceeding is to simplify and streamline the Commission's reporting requirements, and to reduce the reporting burden on pipelines. For the Commission to add to the reporting burden by including receipt and delivery point data in the Index of Customers, a conclusive showing would need to be made that a problem in the secondary market exists, and that the inclusion of the point information would solve the problem. The Registry has not made such a showing in its request for rehearing. Instead, the Registry has presented a general claim that the market will fail to function properly, or will collapse completely, without the availability of the information.

Receipt and delivery point information has never before been available in an electronic index. At best, the information was embedded in the initial and subsequent reports that pipelines were required to file, and thus, not easily accessible. Without the ready availability of receipt and delivery point information, the secondary capacity market was created, and has grown to a healthy market. Since the market has expanded to what it is today, without market participants' access to capacity information at receipt and delivery points throughout its infancy and development, it is logical to assume that a continued lack of access to this information will not cause it to fail or collapse.

The Registry rests its belief that the market is destined to fail on the lack of confidence in the market and of knowledge of the true value of capacity that will be caused by a lack of access to receipt and delivery point information. It states that without capacity information by point, there is no method for market participants to monitor the quantity of rights sold or available for sale.

However, market participants may determine the quantity of rights sold, at particular receipt and delivery points, through the capacity release data sets that pipelines are required to make publicly available through EDI transmission and information posted on each pipeline's EBB. Second, even if the contract quantity by receipt and delivery point were posted in the Index of Customers, there is no way of knowing what proportion of the posted capacity is available for release. In any given time frame, some capacity is available for release, some is used by the owner, and some is idle.

Finally, the Commission is not abdicating its responsibility to the natural gas market and to the public by failing to require that this information be included in the Index of Customers for the purpose of aiding the secondary market. The Commission has all indications that the market can function adequately without the electronic posting of this information in an Index

of Customers. Moreover, we have determined that requiring this information to be included in a quarterly Index of Customers is unnecessary for the Commission to fulfill its regulatory oversight responsibilities. We find that there is enough information included in the capacity release data sets for the Commission to monitor the secondary market. Accordingly, the Commission will not require that receipt and delivery point information be included in the Index of Customers. Rehearing is denied.

B. Customer Codes

As with the discount reports, ANR/CIG are concerned that the dissemination of the information in the Index of Customers could cause competitive harm. Therefore, ANR/CIG also seek the use of customer codes instead of customer names for the customer-specific information required in the Index of Customers.

The Commission will not permit the use of customer codes in the Index of Customers. ANR/CIG has proposed the use of customer codes to ensure that the information required by the Index of Customers is kept confidential. However, this information, including the shipper's name, is information that appears in the contract between the pipeline and the shipper, and is the type of information that section 4(c) of the Natural Gas Act (NGA) requires the pipeline to make publicly available.[36]

Furthermore, it has not been demonstrated that the release of a shipper's name, and the other information included in the Index of Customers, would cause competitive harm. First, the data is basic contract information of an identifying nature, and does not include commercially sensitive rate information. Second, the Commission does not presume the existence of competition in the natural gas transportation market, since there is a presumption that a pipeline still retains a substantial degree of market power in the transportation of natural gas, unless proven otherwise. When the claim of confidentiality has been asserted in Commission proceedings, the Commission has required the claim to be supported with specificity, rather than with vague and speculative allegations of competitive harm,[37] since the Commission must ''balance the need for public disclosure against the harm caused by release of the information.''[38] ANR/CIG's request for rehearing on this issue is denied.

3. Clarification of Quarterly Posting Requirement

Section 284.106(c) provides that each calendar quarter, a pipeline must post on the pipeline's electronic bulletin board (EBB), and file with the Commission in electronic form, an electronic index of firm customers under contract as of the first day of the calendar quarter. The Commission clarifies this provision to require pipelines to post and file its index of customers that are under contract as of the first day of the calendar quarter, on the first *business* day of the calendar quarter. This will conserve the pipelines' personnel resources in the event the first day of the calendar quarter falls on a weekend or a holiday.

VII. Effective Date

The amendments to the Commission's regulations adopted in this order on rehearing will become effective April 5, 1996, except for the changes to the Form Nos. 2 and 2–A, which will be effective January 1, 1996. In the final rule, the Commission adopted an effective date of January 1, 1996 for the changes to Form Nos. 2, 2–A, and 11 to afford the pipelines adequate opportunity to adapt to the requirements of the final rule, and to make the necessary modifications to their recordkeeping systems. Adopting the January 1, 1996 effective date means that data for the report year 1995 will be submitted in the format for Form Nos. 2 and 2–A in effect prior to January 1, 1996. Similarly, for report months November 1995 and December 1995, pipelines will report Form No. 11 data in the format in effect prior to January 1, 1996. This is true even though the filing dates for the forms fall subsequent to January 1, 1996.

List of Subjects

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,
Secretary.

In consideration of the foregoing, the Commission denies rehearing in part, grants rehearing in part, clarifies Order No. 581 as described above, and amends Parts 201 and 284, Chapter I, Title 18, *Code of Federal Regulations,* as set forth below.

PART 201–UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

1. The authority citation for Part 201 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352, 7651–7651o.

2. In Part 201, Balance Sheet Accounts, Special Instructions to Accounts 117.1, 117.2, and 117.3, a new subparagraph is added after the last subparagraph in paragraph (a), and paragraph (b) is revised to read as follows:

Balance Sheet Accounts

* * * * *

Special Instructions to Accounts 117.1, 117.2 and 117.3

* * * * *

(a) *Inventory Method*— * * *

Adjustments for inventory losses related to gas held in underground reservoirs due to cumulative inaccuracies of gas measurements, or from other causes, must be charged to Account 823, Gas Losses. Losses of system gas not associated with underground reservoirs must be charged to Account 813, Other Gas Supply Expenses.

(b) *Fixed Asset Method*— * * *

When replacement of the gas is made, the amount carried in Account 117.4 for such volumes must be cleared with a contra entry to Account 808.2, Gas Delivered to Storage—Credit. Any difference between the utility's cost of replacement gas volumes and the amount cleared from Account 117.4 must be recognized as a gain in Account 495, Other gas revenues, or as a loss in Account 813, Other gas supply expenses, with contra entries to Account 808.2.

Adjustments for inventory losses related to gas held in underground reservoirs due to cumulative inaccuracies of gas measurements, or from other causes, must be charged to Account 823, Gas Losses. Losses of system gas not associated with underground reservoirs must be charged to Account 813, Other Gas Supply Expenses. Gas losses must be priced at the market price of gas available to the utility in the month the loss is recognized.

[36] 15 U.S.C. § 717c(c) (1994).

[37] See Trunkline Gas Company, 49 FERC ¶ 61,227 (1989).

[38] ANR Pipeline Company, 65 FERC ¶ 61,280 at 62,305 (1993).

Gas owned by the utility and injected into its system will be deemed to satisfy any encroachment on system gas first before any other use.

3. In part 201, Balance Sheet Accounts, Account 117.4, the word ''revolve'' is removed, and the word ''revalue'' is added in its place.

4. In Part 201, Operation and Maintenance Expense Accounts, Account 805, a new paragraph D is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

805 Other gas purchases.

* * * * *

D. The value of gas received from shippers under tariff allowances that is not consumed in operations nor returnable to customers through rate tracking mechanisms must be credited to Account 495, Other Gas Revenues and charged to this account. Utilities must simultaneously charge Accounts 117.3 or 117.4 as appropriate, with contra credits to Account 808.2, Gas Delivered to Storage—Credit. Records are to be maintained and readily available that include the name of shipper, quantity of gas, and the publication and price used to value shipper-supplied gas.

* * * * *

5. In Part 201, Operation and Maintenance Expense Accounts, Account 806 is revised to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

806 Exchange gas.

This account includes debits or credits for the cost of gas in unbalanced transactions where gas is received from or delivered to another party in exchange, load balancing, or no-notice transportation transactions. The costs are to be determined consistent with the accounting method adopted by the utility for its system gas. If the utility has adopted the inventory method of accounting, the amounts to be recorded in Account 806 must be based on the historical cost of the gas. If the utility has adopted the fixed asset method of accounting, the amounts to be recorded in Account 806 must be based on the current market price of gas at the time gas is tendered for transportation. (See the Special Instructions to Accounts 117.1, 117.2, and 117.3 for a description of the inventory and fixed asset methods and the definition of the current market price of gas.) Contra entries to those in this account are to be made to account 174, Miscellaneous Current and Accrued Assets, for gas receivable and to account 242, Miscellaneous Current and Accrued Liabilities, for gas deliverable under such transactions. Such entries must be reversed and appropriate contra entries made to this account when gas is received or delivered in satisfaction of the amounts receivable or deliverable.

* * * * *

6. In part 201, Operation and Maintenance Expense Accounts, paragraph A of Accounts 808.1 and 808.2 are revised to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

808.1 Gas withdrawn from storage-Debit.

A. This account shall include debits for the cost of gas withdrawn from storage during the year. Contra credits for entries to this account shall be made to accounts 117.1 through 117.4, or account 164.2, Liquefied Natural Gas Stored, as appropriate. (See the Special Instructions to accounts 117.1, 117.2, and 117.3).

* * * * *

808.2 Gas delivered to storage-Credit.

A. This account shall include credits for the cost of gas delivered to storage during the year. Contra debits for entries to this account shall be made to accounts 117.1 through 117.4, or account 164.2, Liquefied Natural Gas Stored, as appropriate. (See the Special Instructions to accounts 117.1, 117.2, and 117.3).

* * * * *

7. In Part 201, Operation and Maintenance Expense Accounts, Account 823 is revised to read as follows:

823 Gas losses.

This account shall include the amounts of inventory adjustments representing the cost of gas lost or unaccounted for in underground storage operations due to cumulative inaccuracies of gas measurements or other causes. (See the Special Instructions to Accounts 117.1, 117.2 and 117.3). If however, any adjustment is substantial, the utility may, with approval of the Commission, amortize the amount of the adjustment to this account over future operating periods.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

8. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7201–7352; 43 U.S.C. 1331–1356.

* * * * *

Subpart B—Certain Transportation by Interstate Pipelines

9. In § 284.106, the first sentence of paragraph (c)(1) is revised to read as follows:

§ 284.106 Reporting requirements.

* * * * *

(c) *Index of customers.* (1) On the first business day of each calendar quarter, subsequent to the initial implementation of this provision, an interstate pipeline must provide for electronic dissemination of an index of all its firm transportation and storage customers under contract as of the first day of the calendar quarter.* * *

* * * * *

[FR Doc. 96–5164 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–P

---

18 CFR Part 284

[Docket No. RM95–4–000]

Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies

February 29, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; Notice Adopting Electronic Filing Specifications for the Index of Customers and Discount Transportation Rate Report.

SUMMARY: On September 28, 1995, the Commission issued a final rule in this proceeding requiring pipelines to file electronically, a quarterly Index of Customers through a downloadable file, and the discount transportation rate reports previously filed only on paper. The Commission is adopting specifications and instructions for the electronic filing of these reports. These filing specifications are entitled ''Instruction Manual for Electronic Filing of the Index of Customers,'' and ''Instruction Manual for Electronic Filing of the Discount Transportation Rate Report,'' respectively.

DATES: Pipelines must implement the data sets for the Index of Customers starting on April 1, 1996, and for the discount transportation rate reports, starting with the first filing after April 1, 1996.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Richard A. White, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, (202) 208–0491

Elizabeth A. Taylor, Office of Pipeline Regulation, 888 First Street NE., Washington, D.C. 20426, (202) 208–0826.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of the document during normal business hours in Room 2–A, 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800–856–3720 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room, 888 First Street, N.E., Washington, D.C. 20426.

The Commission's bulletin board system can also be accessed through the FedWorld system directly by modem or through the Internet. To access the FedWorld system by modem:

- Dial (703) 321–3339 and logon to the FedWorld system.
- After logging on, type: /go FERC

To access the FedWorld system, through the Internet:

- Telnet to: fedworld.gov
- Select the option: [1] FedWorld
- Logon to the FedWorld system
- Type: /go FERC

Or:

- Point your Web Browser to: http://www.fedworld.gov
- Scroll down the page to select FedWorld Telnet Site
- Select the option: [1] FedWorld
- Logon to the FedWorld system
- Type: /go FERC

On September 28, 1995, the Federal Energy Regulatory Commission (Commission) issued Order No. 581, amending its Uniform System of Accounts, its forms, and its reports and statements for natural gas companies.[1] These changes include modifications to the Commission's electronic filing requirements.

Order No. 581 contains several new and revised electronic filing requirements. Interstate pipelines transporting or storing gas under subparts B and G must now provide an electronic Index of Customers through a downloadable file that is updated quarterly.[2] The discount rate report, previously filed only on paper, will now be filed both on paper and electronically.[3] In addition, the electronic filing requirements for Form Nos. 2, 2–A, and 11 must be modified to recognize changes made to these forms.

Although Order No. 581 imposed new electronic filing requirements, it did not include the final electronic filing specifications. The Commission wanted to provide the industry the opportunity to participate in the formulation of the specifications and formats for the electronic filing requirements. To ensure the widest possible input, the Commission directed its staff to convene an informal technical conference. The first conference was convened on December 1, 1995. As a result of the discussions at that meeting, the Commission's staff has formulated the final electronic filing requirements for the Index of Customers and the discount rate reports, attached as Appendices A and B, respectively.[4] Work on Form Nos. 2, 2–A, and 11 will be completed by the working group established for that purpose.[5]

The Index of Customers consists of five data elements: the customer name, the rate schedule under which service is rendered, the contract effective date, the contract termination date, and the maximum daily contract quantity, for either transportation or storage service, as appropriate. Since the expiration date of the contract may depend on the terms of an evergreen or roll-over provision,[6] a separate field is provided to enter the number of days in the roll-over or evergreen period. For example, if a contract has passed its primary expiration date, and is continuing on a month-to-month basis, the pipeline would report the number 31. This number was chosen since the next possible expiration date would be in one month's time. For three of the four reporting dates, that is 31 days away. To minimize the number of changes each quarter to the Index, the working group participants agreed to use the number 31 to designate an evergreen period of one month and 365 to designate one year. If the primary term has not yet expired and, therefore, the contract is not operating under an evergreen or roll-over clause, this field would be empty. That is, two tabs would appear side-by-side.

The primary term must be reported for every record. When the contract is operating under an evergreen clause, the next possible termination date can only be determined by using the primary term date and the number of days reported in the ''Days Until Next Possible Contract Expiration'' field.

In a departure from past practice, a three-character code to identify the filing pipeline will be used for the Index of Customers and the discount rate reports. Previously, the electronic filing requirements specified a six-digit company code available from the Energy Information Agency. In the future, the three-digit code assigned by the Commission as part of the docket number in all dockets with the prefix ''TM,'' will be used to identify the filing pipeline. The new code's short length allows it to be used not only in the data, but as part of the filename. A complete list of the pipelines' three-digit codes is included in these filing specifications.

In addition to the file specifications and definitions, the filing instructions contain aids to filing. One such aid is a presentation of a sample tab-delimited file, and a sample of what it would look like when displayed in a text editor. These samples are intended to help the pipeline accurately create the file. Also included is a section entitled ''File Creation Hints/ Do's and Don'ts, which contains helpful hints on creating a tab-delimited file in several popular software applications.

These electronic filing specifications for the Index of Customers and discount

[1] Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, 60 FR 53019 (October 11, 1995).

[2] *See* 18 CFR 284.106(c) and 284.223(b). II FERC Stats. & Regs. ¶¶ 24,866 and 24,943. No paper copies of the Index of Customers are required to be filed.

[3] *See* 18 CFR 284.7(c)(6). II FERC Stats. & Regs. ¶ 24,847. In its ''Order on Clarification and Granting Rehearing Solely for the Purpose of Further Consideration,'' 73 FERC ¶ 61,215 (1995), the Commission clarified that the discount rate reports should be filed solely on paper until the electronic filing specifications are issued.

[4] The Appendices are not being published in the Federal Register, but are available from the Commission's Public Reference Room.

[5] The Working Group—Forms met on December 12, 1995, and again on February 7, 1996.

[6] These terms are defined in the electronic filing specifications as they are defined in Order No. 636. III FERC Statutes and Regulations ¶ 30,939 at 30,445.

rate reports, entitled ''Instruction Manual for Electronic Filing of the Index of Customers,'' and ''Instruction Manual for Electronic Filing of the Discount Transportation Rate Report,'' respectively, and attached to this notice as Appendices A and B, are hereby adopted. The first electronic filing of the Index of Customers under sections 284.106(c) and 284.223(b) will be April 1, 1996. April 1 is one of the four scheduled filing dates provided for in the referenced regulations. The first discount rate reports to be filed electronically will be the reports due for the month of March 1996. Those reports are due within 15 days of the close of the March billing period.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 96–5166 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, and 524

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for 28 approved new animal drug applications (NADA's) from Coopers Animal Health, Inc., to Mallinckrodt Veterinary, Inc.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Coopers Animal Health, Inc., 1201 Douglas Ave., Kansas City, KS 66103–1438, has informed FDA that it has transferred the ownership of, and all rights and interests in, the following approved NADA's to Mallinckrodt Veterinary, Inc., Mundelein, IL 60060.

NADA No.	Trade name	Active ingredient
6–602	A–H Tablets 25 milligrams (mg)/100 mg.	Doxylamine Succinate
6–983	A–H Injection	Doxylamine Succinate, Chlorobutanol
10–987	Butazolidin Tablets/Bolus.	Phenylbutazone
11–222	Diquel Tablets	Ethylisobutrazine Hydrochloride
11–575	Butazolidin Injection 20%.	Phenylbutazone
11–877	Jenotone Tablets.	Aminopromazine Fumarate
11–893	Dermathycin Injection.	Thyroid Stimulating Hormone
15–182	Canopar Tablets.	Thenium Closylate
13–181	Jenomycin Tablets.	Aminopromazine Fumarate, Neomycin Sulfate
34–477	Jenotone Solution.	Aminopromazine Fumarate
35–016	Scolaban 400	Bunamidine Hydrochloride
35–265	Diquel Solution.	Ethylisobutrazine Hydrochloride
38–800	Butazolidin Granules.	Phenylbutazone
44–757	Prolate I–E	Phosmet
48–913	Halox Wormer Drench.	Haloxon
65–476	Cortisporin Veterinary Ophthalmic Ointment.	Bactricin ZN, Neomycin Sulfate, Polymyxin B Sulfate, Hydrocortisone Acetate
65–485	Neosporin Ophthalmic Ointment.	Bactricin ZN, Neomycin Sulfate, Polymyxin B Sulfate
92–483	Halox Bolus ..	Haloxon
95–614	Tribrissen 30/120/480/960 Tablets.	Sulfadiazine, Trimethoprim
97–288	Imizol Equine Injection.	Imidocarb Dipropionate
101–161	Thenatol PW Tablets.	Thenium Closylate, Piperazine Phosphate
105–093	Tribrissen 24% Injection.	Trimethoprim, Sulfadiazine Sodium
106–965	Tribrissen 48% Injection.	Trimethoprim, Sulfadiazine
116–087	Burazolidin Paste/Butazolidin/Phenylzone/Bute.	Phenylbutazone
120–326	Filban Chewable Wafers.	Diethylcarbamazine Citrate
124–842	Filban Tablets	Diethylcarbamazine Citrate
131–918	Tribrissen 400 Oral Paste.	Trimethoprim, Sulfadiazine
136–741	Tribrissen 60 Oral Suspension.	Trimethoprim, Sulfadiazine

The agency is amending 21 CFR 510.600(c)(1) and (c)(2), and parts 520, 522, and 524 to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

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

21 CFR Parts 520, 522, and 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

§ 510.600 [Amended]

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''Coopers Animal Health, Inc.''; and in the table in paragraph (c)(2) by removing the entry for ''017220''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

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

§ 520.82a [Amended]

4. Section 520.82a *Aminopropazine fumarate tablets* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.82b [Amended]

5. Section 520.82b *Aminopropazine fumarate, neomycin sulfate tablets* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.222 [Amended]

6. Section 520.222 *Bunamidine hydrochloride* is amended in paragraph (c) by removing ''017220'' and adding in its place ''011716''.

§ 520.622c [Amended]

7. Section 520.622c *Diethylcarbamazine citrate chewable tablets* is amended in paragraph (b)(5) by removing ''017220'' and adding in its place ''011716''.

§ 520.784 [Amended]

8. Section 520.784 *Doxylamine succinate tablets* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.863 [Amended]

9. Section 520.863 *Ethylisobutrazine hydrochloride tablets* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.1120a [Amended]

10. Section 520.1120a *Haloxon drench* is amended in paragraph (c) by removing ''017220'' and adding in its place ''011716''.

§ 520.1120b [Amended]

11. Section 520.1120b *Haloxon boluses* is amended in paragraph (c) by removing ''017220'' and adding in its place ''011716''.

§ 520.1720a [Amended]

12. Section 520.1720a *Phenylbutazone tablets and boluses* is amended in paragraph (b)(1) by removing ''017220'' and adding in its place ''011716''.

§ 520.1720b [Amended]

13. Section 520.1720b *Phenylbutazone granules* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.1720c [Amended]

14. Section 520.1720c *Phenylbutazone paste* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.1805 [Amended]

15. Section 520.1805 *Piperazine phosphate with thenium closylate tablets* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.2362 [Amended]

16. Section 520.2362 *Thenium closylate tablets* is amended in paragraph (c) by removing ''017220'' and adding in its place ''011716''.

§ 520.2610 [Amended]

17. Section 520.2610 *Trimethoprim and sulfadiazine tablets* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.2611 [Amended]

18. Section 520.2611 *Trimethoprim and sulfadiazine oral paste* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 520.2612 [Amended]

19. Section 520.2612 *Trimethoprim and sulfadiazine oral suspension* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

20. The authority citation for 21 CFR Part 522 continues to read as follows:

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

§ 522.82 [Amended]

21. Section 522.82 *Aminopropazine fumarate sterile solution injection* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 522.784 [Amended]

22. Section 522.784 *Doxylamine succinate injection* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 522.863 [Amended]

23. Section 522.863 *Ethylisobutrazine hydrochloride injection* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 522.1155 [Amended]

24. Section 522.1155 *Imidocarb dipropionate sterile powder* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

§ 522.1720 [Amended]

25. Section 522.1720 *Phenylbutazone injection* is amended in paragraph (b)(1) by removing ''017220'' and adding in its place ''011716''.

§ 522.2610 [Amended]

26. Section 522.2610 *Trimethoprim and sulfadiazine sterile suspension* is amended in paragraphs (a)(2) and (b)(2) by removing ''017220'' and adding in its place ''011716''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

27. The authority citation for 21 CFR part 524 continues to read as follows:

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

§ 524.154 [Amended]

28. Section 524.154 *Bacitracin or bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment* is amended in paragraph (a)(2) by removing ''017220'' and adding in its place ''011716''.

§ 524.155 [Amended]

29. Section 524.155 *Bacitracin zinc-polymyxin B sulfate neomycin sulfate-hydrocortisone or hydrocortisone acetate ophthalmic ointment* is amended in paragraph (a)(1) by removing ''017220'' and adding in its place ''011716''.

§ 524.1742 [Amended]

30. Section 524.1742 *N-(Mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorodithioate) emulsifiable liquid* is amended in paragraph (b) by removing ''017220'' and adding in its place ''011716''.

Dated: February 28, 1996.

Robert C. Livingston,

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

[FR Doc. 96–5213 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–71–2–6062a; FRL–5427–4]

Approval and Promulgation of Implementation Plans—Kentucky: Approval of Revision To The State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the Kentucky State Implementation Plan (SIP) adopted by the Kentucky Natural Resources and Environmental Protection Cabinet (KNREP) on March 4, 1993, for the

purpose of implementing a Stage II vapor recovery program in Jefferson County, Kentucky.

DATES: This final rule is effective May 6, 1996 unless adverse or critical comments are received by April 5, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Alan Powell at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

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.

Kentucky Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 316 St. Clair Mall, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Alan Powell, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4209. Reference file KY–71–2.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act as amended in 1990 (CAA) includes new requirements for the improvement of air quality in ozone nonattainment areas. Under section 181(a) of the CAA, nonattainment areas were categorized by the severity of the area's ozone problem, and progressively more stringent control measures were required for each category of higher ozone concentrations. The basis for classifying an area in a specific category was the ambient air quality data obtained in the three year period 1987–1989. The CAA delineates in section 182 the SIP requirements for ozone nonattainment areas based on their classifications. Specifically, section 182(b)(3) requires areas classified as moderate to implement Stage II controls unless and until EPA promulgates On Board Vapor Recovery (OBVR) regulations pursuant to section 202(a)(6) of the CAA. Based on consultation with the National Highway Transportation Safety Board, EPA determined that OBVR were unsafe and therefore moderate areas must implement a Stage II program. On January 22, 1993, the United States Court of Appeals for the District of Columbia ruled that EPA's previous decision not to require OBVR controls be set aside and that OBVR regulations be promulgated pursuant to section 202(a)(6) of the CAA. Subsequently, EPA reached a settlement with the plaintiffs which required EPA to promulgate final regulations by January 22, 1994. After such promulgation, moderate areas will not be required to implement Stage II regulations, but Kentucky has indicated that the Commonwealth intends to continue Stage II as part of its ozone attainment plan for the Jefferson County, Kentucky area. The EPA Administrator signed the OBVR final rule on January 24, 1994.

Under section 182(b)(3), EPA was required to issue guidance as to the effectiveness of Stage II systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement. These two documents are entitled ''Technical Guidance-Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities'' (EPA–450/3–91–022) and ''Enforcement Guidance for Stage II Vehicle Refueling Control Programs.'' In addition, on April 16, 1992, EPA published the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498). The guidance documents and the General Preamble discuss Stage II statutory requirements and indicate what EPA believes a State submittal needs to include to meet those requirements.

The Pollution Control District of Jefferson County approved these regulations and on February 24, 1993, the Commonwealth of Kentucky granted prior concurrence according to the provision in KRS 224.20–130. The Jefferson County regulation is summarized as follows.

Regulation 6.40—Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery)

The CAA specifies that the state regulation must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), any facility that dispenses more than 50,000 gallons of gasoline per month. Section 324 of the CAA defines an ISBM. The Jefferson County regulation does not allow the ISBM exemption and all gasoline dispensing stations with a throughput of more than 10,000 gallons per month must comply.

Consistent with EPA's guidance, the regulation requires that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiently by using a system approved by the California Air Resources Board (CARB). The regulation requires sources to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility (i.e., 75 percent or more equipment change). The County has also established an inspection program consistent with that described in EPA's guidance and has established procedures for enforcing violations of the Stage II requirements.

EPA has evaluated the Kentucky submittal for consistency with the CAA, EPA regulations, and EPA policy. EPA has determined that the rule addressed in this notice meets all of the CAA requirements and is approving under section 110(k)(3), Regulation 6.40 of the Air Pollution Control District of Jefferson County as part of the Kentucky SIP.

Final Action

EPA is approving this revision because it meets the requirements of EPA and the CAA. This action is being taken 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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 6, 1996 unless, by April 5, 1996 adverse or critical comments are received.

If the 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 separate proposed rule. 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 May 6, 1996.

The Agency has reviewed this request for revision of the Federally-approved

State implementation plan for conformance with the provisions of the CAA. The Agency has determined that this action conforms with those requirements.

Under section 307(b)(1) of the Act, 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 May 6, 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 Act, 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.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the Commonwealth is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410(k)(3).

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

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section (insert) of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action will impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

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

Dated: January 10, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

52 of 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 S—Kentucky

2. Section 52.920, is amended by adding paragraph (c) (82) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(82) Revision to the Kentucky State Implementation Plan; Regulation 6.40 of the Air Pollution Control District of Jefferson County which was submitted to EPA on March 4, 1993.

(i) Incorporation by reference.

Regulation 6.40 Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control) which were adopted on December 16, 1992.

(ii) Other material. None.

[FR Doc. 96–5082 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 70

[IN002; FRL–5434–2]

Clean Air Act Final Interim Approval of the Operating Permits Program; Indiana; Correction

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final interim approval; Correction.

SUMMARY: On November 14, 1995 (60 FR 57191), EPA promulgated interim approval of the 40 CFR Part 70 Operating Permits Program for the State of Indiana. The document correctly identified the effective date as December 14, 1995. However, the language to amend 40 CFR part 70 listed an incorrect effective date and an incorrect expiration date for the interim approval of this program.

EFFECTIVE DATE: December 14, 1995.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886–3189.

SUPPLEMENTARY INFORMATION: In the document published on November 14, 1995, at 60 FR 57191, column 3, the effective date and expiration date were incorrect. This final rule corrects the language to amend 40 CFR part 70 in a manner which is consistent with the November 14, 1995 rule. The correct effective date of this interim approval is December 14, 1995, and the correct expiration date of this interim approval is December 14, 1997.

The USEPA regrets any inconvenience the earlier information has caused.

List of Subjects in 40 CFR Part 70

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

Dated: January 25, 1996.

Valdas V. Adamkus,

Regional Administrator.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

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

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

2. Appendix A to part 70 is amended by revising the entry for Indiana to read as follows:

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

* * * * *

Indiana

(a) The Indiana Department of Environmental Management: submitted on August 10, 1994; interim approval effective on December 14, 1995; interim approval expires December 14, 1997.

(b) Reserved

* * * * *

[FR Doc. 96–5053 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 152

[OPP–300350A; FRL 4984–8]

RIN 2070–AC67

Exemption of Certain Pesticide Substances From Federal Insecticide, Fungicide, and Rodenticide Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes an exemption from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for certain pesticides. EPA has determined that these pesticides, under certain conditions, are of a character not necessary to be regulated under FIFRA in order to carry out the purposes of the Act. EPA has concluded that exemption of products covered by this final rule will not pose unreasonable risks to public health or the environment and will, at the same time, relieve producers of the burden associated with regulation. Pesticidal products that do not meet the conditions of this final rule will continue to be regulated under FIFRA.

DATES: This rule becomes effective May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Robert S. Brennis, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location: Room 713, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone: 703–305–7501, e-mail: brennis.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Authority: This rule is issued under the authority of FIFRA section 25(b).

EPA issued a proposed rule in the Federal Register on September 15, 1994 to exempt from FIFRA regulation certain pesticidal substances (59 FR 47289). In its proposal, EPA identified a total of 31 pesticidal active ingredients that it believed were not of a character necessary to be regulated under FIFRA.

In developing its list of exempted substances, EPA applied certain factors. Consideration was given to such factors as, (1) whether the pesticidal substance is widely available to the general public for other uses; (2) if it is a common food or constituent of a common food; (3) if it has a nontoxic mode of action; (4) if it is recognized by the Food and Drug Administration (FDA) as safe; (5) if there is no information showing significant adverse effects; (6) if its use pattern will result in significant exposure, and (7) if it is likely to be persistent in the environment.

EPA also proposed, as a condition of exempted status, several restrictions. First, the proposal identified active ingredients and listed certain inert ingredients that would be permitted in exempted formulations. Pesticide formulations would qualify only if all of the ingredients contained in the product were exempt. All inert ingredients contained in the formulation would have to be from the list of inerts identified as minimum risk inerts as published in the Federal Register as List 4A inerts. This list was last published in the Federal Register, September 28, 1994 (59 FR 49400).

Second, in order to qualify for the exemption, the pesticide product label must identify all the ingredients of the product. Third, labels must comply with established regulations regarding false and misleading statements (40 CFR 156.10(a)(5)(i) through (viii)). And fourth, the substance or product could not bear claims either to control or mitigate microorganisms that pose a threat to human health or carriers of such microorganisms.

In its proposal, EPA solicited comments on the list of substances themselves, the evaluation factors and the conditions of exemption.

EPA has determined, with the conditions imposed by this rule, that use of these pesticides poses insignificant risks to human health or the environment in order to carry out the purposes of the Act, and the burden imposed by regulation is, therefore, not justified. The Agency, in promulgating this rule, is responding to society's increasing demand for more natural and benign methods of pest control, and to the desire to reduce governmental regulations and ease the burden on the public. The regulatory steps required to register any pesticide substance are formidable, not only for the Agency but for the applicants, who often are small businesses. The novice registrant often requires extra attention and instruction. EPA believes that both the applicant and the Agency are consuming valuable time, energy, and money to register chemicals that pose such low risk.

II. Implementation

Products registered with EPA which now qualify for exemption from pesticide regulation under this rule, will remain registered until further action is taken by the registrant. The Agency encourages voluntary cancellation of these registrations. Cancellation requests should be mailed to James A. Hollins, Office of Pesticide Programs (7502C) EPA, 401 M St., SW., Washington, DC 20460. The letter should request cancellation under FIFRA section 25(b) and specify the product to be canceled by both name and EPA registration number. Existing stocks may be distributed for 1 year after the date of cancellation. After that date, it will be a violation of FIFRA for the former registrant to sell or distribute stock with an EPA registration number displayed on the label. Products in channels of trade may be sold and used until supplies are exhausted.

Producers of products that are exempted from regulation by this final rule, will not be obligated to comply with the established registration and reporting requirements of FIFRA, section 7 with respect to exempted products. Producers who wish to market exempted products do not need to notify the Agency or obtain confirmation that the product is exempt. Provided the producer complies with all conditions of this rule, product may be distributed. To comply, producers must refer to this rule, the most recently published 4A inerts list, and a copy of the false and misleading labeling requirements contained in 40 CFR 156.10(a)(5)(i) through (viii).

It is important to note that this rule only affects Federal regulation of pesticide products. Pesticide producers of exempt products should contact the pesticide agency in each State in which

they wish to market their products, to determine if there are State requirements which need to be met.

III. Public Comment and Agency Response

Fifty-six commenters responded to the proposed rule. Of these, 29 (52%) generally opposed the proposal, and 23 (41%) generally supported it. Fourteen of the 29 commenters who opposed the rule as proposed, expressed support for some form of reduced regulation of low-risk pesticides.

Supporters of the proposal include the ''organic'' industry, Greenpeace and companies likely to benefit from deregulation of these substances. Those opposed to the proposal include the States' FIFRA Issues Research Evaluation Group (SFIREG); State lead agencies with pesticide enforcement responsibilities in Arizona, California, New Jersey and Vermont; the Armed Forces Pest Management Board; the U.S. Department of Health and Human Services' Center for Disease Control; the National Coalition Against the Misuse of Pesticides (NCAMP); mosquito and vector control agencies; and several members of the regulated pesticide industry.

The supporters of the proposal generally agreed with EPA that regulation of the listed substances is not necessary to prevent unreasonable adverse effects on human health or the environment. Many commented that deregulation would encourage the development and use of ''safer'' pesticides and that the exemptions would benefit business, especially small business and the organic industry. Many supporters felt that EPA should more fully implement the proposal by greatly expanding the lists of exempted active ingredients and permitted inerts. Approximately 80 additional active ingredients and 50 inerts were proposed for future consideration. The Agency will evaluate each active ingredient and will include those it feels qualify for exemption in its next proposal. The inerts are presently being reviewed for possible inclusion in the next published list of inerts of minimum concern (inerts 4A list).

Among objections to the proposal, the most often repeated concern was that deregulation would result in a proliferation of ineffective products making false or misleading claims about product performance and/or safety and that the public would pay the price for inadequate oversight by EPA and the Federal Trade Commission (FTC). SFIREG, the State Lead Agencies, and others expressed concern that deregulation would create a number of serious enforcement problems for States. Other significant concerns included the fear that deregulation of arthropod repellents would adversely affect public health; that certain substances proposed for exemption or included on the list of permitted inerts were not ''safe'' or could cause adverse effects when used in combination or in ways not anticipated by EPA; that EPA's factors and process for determining which substances to exempt or its process for revoking exemptions in the face of reported adverse effects were inadequate; and that deregulation of these substances would give an unfair competitive advantage to manufacturers of exempt pesticide products. Although more than 50 percent of the commenters opposed the proposed exemptions, nearly half (14 of 29) of the opponents expressed support for some form of reduced regulation of low-risk pesticides.

In response to concerns regarding labeling and enforcement, the Agency has changed the rule to provide specific label requirements as indicated in the following section of this rule. If these conditions are not met by products being distributed, then the conditions for exemption from regulation have not been met, and the Agency retains authority to bring enforcement action under FIFRA.

It is significant to point out, that since one condition for exemption is that the product label cannot make false or misleading claims, it is important for formulators and distributors of unregulated products to ensure that they are not making any unsupported efficacy claims for any pest, particularly for those which may be of a possible public health concern.

The final rule clearly and concisely states which conditions manufacturers must meet to obtain exempted status for certain low-risk pesticides. States need only review whether a product meets those conditions to determine exempt status. The Agency is convinced that the deregulation of low risk products is wise. Exempted products should not require significant monitoring and it will not be difficult for States to identify properly exempted products. Those States which do not allow exemptions from State registration are free to continue to enforce their State provisions.

Many commenters expressed concern that deregulation of some pesticides would give a competitive advantage to manufacturers of deregulated products. EPA's regulatory authority under FIFRA is primarily a licensing authority and every decision has some potential effect on competitors. The Agency does not consider potential impact on competitors to be a valid and sufficient reason to preclude an exemption under FIFRA.

While no one submitted compelling evidence that the listed substances should not be exempted from regulation, several people took issue with the way EPA approached exempting pesticides in general and expressed concerns about the specific factors the Agency used to arrive at its selections. The Agency agrees that any one factor, taken alone, is insufficient to make a minimum risk determination. Admittedly, many chemicals that are available to the public on a daily basis, pose some level of risk, and several higher-risk pesticides were once listed on FDA's Generally Recognized As Safe (GRAS) list. It is important to stress that these factors were not applied exclusive of one another, but rather in conjunction with all of the others. Moreover, the factors themselves are not meant to be absolute criteria and certainly some factors are unsupported for some of the substances. But, taken as a whole, EPA believes that the factors applied to each of the substances indicate that the substances will not pose a risk that warrants regulation under FIFRA. EPA researched each substance prior to proposing it for exemption. A general literature search was performed in addition to an in-house search of the Agency's own data base.

In its proposal, the Agency invited the public to add to the list of factors or submit information that might be appropriate to consider in determining whether a substance should be exempted from FIFRA regulation. No information was submitted by commenters about the proposed pesticides to support their comments. Any person may submit evidence that refutes the Agency's conclusions that any exempted pesticide should no longer be exempted because of newly uncovered risk. EPA will consider such information in determining whether the exemption should be continued.

Commenters indicated that EPA should adopt a position similar to FDA's that allows cosmetics manufacturers to use the generic term ''fragrance'' on their labels. The requirement to list all ingredients on the exempted product label presents problems, since fragrances are often purchased from independent vendors, and their formulations are proprietary. Fragrances can be skin sensitizers or have other adverse effects, particularly at higher concentrations. The Agency's evaluation of fragrances is concentration dependent; that is, it is based upon the amount of fragrance that will be used in

a given formulation. What is acceptable at 0.1% concentration, may not be acceptable at 2%. In deregulating, the Agency would not be able to regulate the concentration of these fragrances in a formulation. The Agency understands the proprietary nature of many fragrance formulations, and we have evaluated ways of including fragrances on inerts list 4A. The Agency has found no workable solutions for this issue. The rule has not been changed.

All public comments and more detailed responses to specific issues, are available in the public docket.

IV. Revisions Made to the Rule in Response to Comments

The Agency has made the following changes from the proposed rule in response to the comments it received.

1. The ingredients cinnamon, citronella, garlic, and sesame have been revised to include their oils.

2. The requirement that the product label must indicate the percentage (by weight) of active ingredient(s) contained in the product has been added.

3. The requirement, ''The substance or product must not bear claims either to control or mitigate microorganisms that pose a threat to human health or carriers of such microorganisms'', has been amended to read, ''The substance or product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including, but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.''

4. The requirement that products must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) - (viii) has been added.

V. Public Docket

EPA has established a public docket for this rulemaking (OPP–300350 and 300350A). All comments received in response to the proposed and final rule are available in the public docket. 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 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. Please address all written inquiries to the Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

VI. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), it has been determined that this rule is not ''significant'' and is therefore not subject to review by the Office of Management and Budget.

B. Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub.L. 96–354; 94 Stat. 1164, 5 U.S.C. 601 et seq.). EPA has determined that this rule will have a positive economic impact on a substantial number of small businesses which will no longer be subject to FIFRA regulation, thereby reducing their costs and regulatory burdens.

Accordingly, I certify that this rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This rule contains no information collection requirements. Therefore, the Paperwork Reduction Act is not applicable.

D. SAP, USDA and Congressional Review

In accordance with FIFRA section 25, the FIFRA Scientific Advisory Panel (SAP) has waived review of this rule. A copy of the rule has been forwarded to the U.S. Department of Agriculture before publication. Copies of the final rule also were forwarded to the Committee of Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

List of Subjects in 40 CFR Part 152

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: February 28, 1996.

Carol M. Browner,

Administrator.

Therefore, 40 CFR chapter I, part 152 is amended as follows:

PART 152—[AMENDED]

1. The authority citation for part 152 continues to read as follows:

Authority: 7 U.S.C. 136–136y.

2. In § 152.25 by adding a new paragraph (g) to read as follows:

§ 152.25 Exemptions for pesticides of a character not requiring FIFRA regulation.

* * * * *

(g) *Minimum risk pesticides*— (1) *Exempted products.* Products containing the following active ingredients are exempt from the requirements of FIFRA, alone or in combination with other substances listed in this paragraph, provided that all of the criteria of this section are met.

Castor oil (U.S.P. or equivalent)
Cedar oil
Cinnamon and cinnamon oil
Citric acid
Citronella and Citronella oil
Cloves and clove oil
Corn gluten meal
Corn oil
Cottonseed oil
Dried Blood
Eugenol
Garlic and garlic oil
Geraniol
Geranium oil
Lauryl sulfate
Lemongrass oil
Linseed oil
Malic acid
Mint and mint oil
Peppermint and peppermint oil
2-Phenethyl propionate (2-phenylethyl propionate)
Potassium sorbate
Putrescent whole egg solids
Rosemary and rosemary oil
Sesame (includes ground sesame plant) and sesame oil
Sodium chloride (common salt)
Sodium lauryl sulfate
Soybean oil
Thyme and thyme oil
White pepper
Zinc metal strips (consisting solely of zinc metal and impurities)

(2) *Permitted inerts.* A pesticide product exempt under paragraph (g)(1) of this section may only include inert ingredients listed in the most current List 4A. This list is updated periodically and is published in the Federal Register. The most current list may be obtained by writing to Registration Support Branch (4A Inerts List) Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

(3) *Other conditions of exemption.* All of the following conditions must be met for products to be exempted under this section:

(i) Each product containing the substance must bear a label identifying the name and percentage (by weight) of each active ingredient and the name of each inert ingredient.

(ii) The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.

(iii) The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

[FR Doc. 96–5240 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 64

[FCC 96–34]

Inmate Calling Services—Prison Payphones

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: On January 30, 1996, the Commission adopted a Declaratory Ruling that inmate-only payphone instruments are customer premises equipment (CPE) that must be provided on an unregulated basis. The Commission additionally denied petitioner's request that certain inmate-only services be considered enhanced services. The intended effect is to ensure that the inmate-only payphone market remains competitive.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: Alan A. Thomas, Attorney, Network Services Division, Common Carrier Bureau, (202) 418–2338.

SUPPLEMENTARY INFORMATION: This report summarizes the Commission's Declaratory Ruling in the matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force—Prison Payphones, (RM–8181, FCC 96–34, adopted January 30, 1996 and released February 20, 1996). The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857–3800.

Analysis of Proceeding

1. Petitioner requested the Commission to rule that LECs must provide inmate-only payphone instruments as detariffed CPE and must offer certain prison inmate payphone services as unregulated enhanced services. Petitioner argued that inmate-only payphone service is distinguishable from pay telephone service offered to the ''transient mobile public,'' as defined in Tonka Tools, Inc. 58 RR 2d 903, 50 FR 24694 (June 12, 1985) and therefore not entitled to special treatment pursuant to Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980), 45 FR 24694 (May 13, 1980).

2. In this Declaratory Ruling, the Commission concluded that the decision in Tonka resulted from a concern that payphones should be available to the ''transient mobile'' or general public. Those concerns, the Commission concluded, are not applicable in the context of prison payphones. Thus the Commission agreed with Petitioner that inmate-only payphones are to be considered CPE for regulatory purposes.

3. Additionally, the Commission rejected Petitioner's argument that inmate phone services such as call monitoring and blocking, and restrictions on call timing and duration are enhanced services under the Commission's Computer II decisions. The Commission concluded that these services may be characterized as adjuncts to basic service under existing precedent. The Commission also concluded that the record provided insufficient detail to support a ruling that inmate Personal Identification Numbers (PINs) are an enhanced service.

4. Ordering Clauses. *It is ordered*, pursuant to Section 4 of the Communications Act as amended, 47 U.S.C. §§ 154, that the petition for declaratory ruling filed by the Inmate Calling Services Providers Task Force of the American Public Communication Council is Granted to the extent discussed and otherwise IS Denied.

5. *It is further ordered* that carriers shall notify their customers in writing for prison payphone service of the change in status of inmate-only customer premises equipment from a regulated activity to a nonregulated activity by July 1, 1996. Accordingly, by September 2, 1996, the LECs must reclassify any inmate-only pay telephone investment recorded in Account 32.2351, Public telephone terminal equipment, along with the associated depreciation and tax reserves and any related expenses, from a regulated activity to nonregulated activity pursuant to our Part 64 rules. The LECs shall also establish whatever Part 64 cost pools are needed to accomplish this reclassification and shall file revisions to their Cost Allocation Manuals reflecting this reclassification within sixty (60) days prior to the effective date of the change. In addition, carriers must make appropriate tariff changes pursuant to Part 61 of the Commission's Rules.

6. List of Subjects in 47 CFR Parts 61 and 64

Inmate-only payphone equipment, Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–5187 Filed 3–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 64

[CC Docket No. 91–115; FCC 96–38]

Tariffing Requirements for Billing Name and Address

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: On February 1, 1996, the Commission adopted a Third Order on Reconsideration in this proceeding denying two petitions for reconsideration filed by US West Communications, Inc. (US West). In its first petition, US West sought reconsideration of the Commission's denial of its petition for stay of the Order requiring LECs to file tariffs governing the provision of billing name and address (BNA) information. The Commission denied this petition as repetitious, because the Commission had addressed all of US West's arguments in a previous Order. In the other petition, US West sought reconsideration of the prohibition against using BNA information for marketing purposes, which the Commission adopted in 1993 to protect end user privacy when local exchange carriers provide BNA information under tariff. US West also claimed that the previous Orders in this proceeding did not explain whether the BNA rules applied to all BNA information, or only to BNA information associated with calling card, third party, and collect calls. The Commission denied this petition to the extent it sought to eliminate the prohibition against using BNA information for marketing purposes, and granted it to the extent it

sought clarification of the application of the BNA requirements.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth, Tariff Division, Common Carrier Bureau, (202) 418–1530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Order on Reconsideration adopted February 1, 1996, and released February 9, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street NW., Washington, DC 20037.

Regulatory Flexibility Analysis

The Commission has determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), does not apply to these rules because they do not have a significant economic impact on a substantial number of small entities. The definition of a ''small entity'' in Section 3 of the Small Business Act excludes any business that is dominant in its field of operation. Although some of the local exchange carriers that will be affected are very small, local exchange carriers do not qualify as small entities because each of them has a monopoly on ubiquitous access to the subscribers in their service area. The Commission has also found all exchange carriers to be dominant in its competitive carrier proceeding. *See* 85 FCC 2d 1, 23–24 (1980). To the extent that small telephone companies will be affected by these rules, the Commission hereby certifies that these rules will not have a significant effect on a substantial number of ''small entities.''

Summary of Report and Order

In the Second Report and Order in this Docket, 58 FR 36143, July 6, 1993, the Commission required local exchange carriers (LECs) to provide their customers' BNA information to interexchange carriers and other telecommunications service providers on a common carrier basis. Because widespread disclosure of BNA information could conflict with customers' reasonable expectations of privacy, the Commission also limited BNA disclosure, thus safeguarding these expectations. In particular, the Commission prohibited parties obtaining BNA information from using it for marketing purposes. In the Second Order on Reconsideration in this docket, 58 FR 65669, December 16, 1993, the Commission revised some of its privacy protections, but again expressly forbade parties from using BNA information for marketing purposes.

In its petitions for reconsideration, US West argued that the record did not adequately demonstrate the need for any privacy protections, that adopting these rules violated US West's due process rights, that these rules were inconsistent with rules we adopted in a different proceeding, and that the restriction against marketing was an unconstitutional restriction on BNA purchasers' freedom of speech. The Commission found that none of these arguments warranted revision of the BNA privacy protections.

US West also claimed that the previous Orders in this proceeding did not explain whether the rules applied to all BNA information, or only to BNA information associated with calling card, third party, and collect calls. The Commission explained which of its rules apply to all BNA information, and which apply only to BNA information associated with calling card, third party, and collect calls. The Commission also revised Section 64.1201(e)(3) of its rules, to make its application more clear.

Ordering Clauses

Accordingly, *It is ordered,* Pursuant to Section 1.429(i) of the Commission's Rules, 47 CFR § 1.429(i), that the petition for reconsideration of the First BNA Reconsideration Order filed by US West Communications, Inc. *is dismissed as repetitious.*

It is further ordered, Pursuant to Section 1.429(i) of the Commission's Rules, 47 CFR § 1.429(i), that the petition for reconsideration of the Second BNA Reconsideration Order filed by US West Communications, Inc. *is granted* to the extent indicated above, and otherwise *is denied.*

It is further ordered, That the policies, rules and requirements set forth herein *are adopted.*

List of Subjects in 47 CFR Part 64

Communications common carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Title 47 of the CFR, Part 64, is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Rule Changes

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted.

2. Section 64.1201(e)(3) is revised to read as follows:

§ 64.1201 Restrictions on billing name and address disclosure.

* * * * *

(e) * * *

(3) No local exchange carrier shall disclose the billing name and address information associated with any calling card call made by any subscriber who has affirmatively withheld consent for disclosure of BNA information, or for any third party or collect call charged to any subscriber who has affirmatively withheld consent for disclosure of BNA information.

[FR Doc. 96–5189 Filed 3–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 87–433; RM–5994 and RM–6181]

Radio Broadcasting Services; Punxsutawney, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Chief, Policy and Rules Division denied the petition for reconsideration, filed by Renda Radio, Inc., licensee of Station WPXZ-FM, Punxsutawney, Pennsylvania, of the letter decision by the Chief, Allocations Branch, to return as procedurally defective Renda's petition for rule making. With this action, the proceeding is terminated.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* MM Docket No. 87–433, adopted February 16, 1996 and released February 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–5191 Filed 3–5–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 89–594, RM–7142, RM–7318]

Radio Broadcasting Services; Harrisburg and Albemarle, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Chief, Policy and Rules Division denied the petition for reconsideration, filed by Piedmont Crescent Communications, Inc., of the *Report and Order* in this proceeding, 56 FR 1650, published January 15, 1992. The *Report and Order* granted RM–7142 to allot Channel 224A to Harrisburg and partially denied another proposal, treated as a counterproposal and filed by Piedmont, to substitute Channel 264A for Channel 265A at Albemarle, North Carolina, to reallot Channel 264A to Harrisburg, North Carolina, and to modify the license of Albemarle Station WABZ-FM accordingly, and also to allot Channel 224A to Harrisburg. With this action, the proceeding is terminated.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* MM Docket No. 89–594, adopted February 16, 1996 and released February 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–5190 Filed 3–5–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 229

[FRA Docket No. RSGC–2, Notice No. 10]

RIN 2130–AA80

Locomotive Visibility; Minimum Standards for Auxiliary Lights

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FRA amends the locomotive safety standards to increase train visibility. This action requires that certain locomotives be equipped with auxiliary lights to enable motorists, railroad employees and pedestrians to recognize approaching trains at a greater distance. The rule requires that locomotives operated over public highway-rail crossings at greater speeds than 20 miles per hour be equipped with auxiliary lights.

EFFECTIVE DATE: May 6, 1996.

ADDRESSES: Petitions for reconsideration should 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.

FOR FURTHER INFORMATION CONTACT: Gordon Davids, Bridge Engineer, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202–366–0507); Grady Cothen, Jr., Deputy Associate Administrator for Safety Standards, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202–366–0897); or Kyle M. Mulhall, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202–366–0635).

SUPPLEMENTARY INFORMATION: On August 28, 1995, FRA published a notice of proposed rulemaking (NPRM) that would change headlight regulations for locomotives by requiring two auxiliary lights that would be placed on the front of the locomotive to form a triangle with the headlight. 60 FR 44457. Publication of this final rule was required by section 14 of the Amtrak Authorization and Development Act (Pub. L. 102–533). This legislation added a new subsection (u) to § 202 of the Federal Railroad Safety Act of 1970 (FRSA) [45 U.S.C. 431(u)], to address locomotive visibility. On July 5, 1994, § 202(u) of the FRSA, together with all the other general and permanent Federal railroad safety laws, was simultaneously repealed, revised and reenacted without substantive change, and recodified as positive law at 49 U.S.C. 20143. As recodified, the section now reads as follows:

Locomotive Visibility

(a) *Definition.*—In this section, ''locomotive visibility'' means the enhancement of day and night visibility of the front end locomotive of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) *Interim Regulations.*—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identifying ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) *Review of Regulations.*—The Secretary shall review the Secretary's regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) *Regulatory Proceeding.*—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

(1) Revisions to the existing locomotive headlight standards, including standards for placement and intensity;

(2) Requiring the use of reflective material to enhance locomotive visibility;

(3) Requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;

(4) Requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;

(5) The effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and

(6) Separate standards for self-propelled, push-pull, and multiple unit passenger operations without a dedicated head end locomotive.

(e) *Final Regulations.*—(1) Not later than June 30, 1995, the Secretary shall prescribe final regulations requiring enhanced locomotive visibility measures. The Secretary shall require that not later than December 31, 1997,

a locomotive not excluded from the regulations be equipped with temporary visibility measures under subsection (b) of this section or the visibility measures the final regulations require.

(2) In prescribing regulations under paragraph (1) of this subsection, the Secretary may exclude a category of trains or rail operations from a specific visibility requirement if the Secretary decides the exclusion is in the public interest and is consistent with rail safety, including grade-crossing safety.

(3) A locomotive equipped with temporary visibility measures prescribed under subsection (b) of this section when final regulations are prescribed under paragraph (1) of this subsection is deemed to be complying with the final regulations for 4 years after the final regulations are prescribed.

After publication of the NPRM, FRA held a public hearing at the request of the Association of American Railroads (AAR) and The American Short Line Railroad Association (ASLRA). This hearing was held in Washington, on November 28, 1995. FRA also extended the comment period on the NPRM. FRA now responds to the comments concerning this rulemaking.

FRA Study of Auxiliary Lights

FRA's Office of Research and Development, through the Volpe National Transportation Systems Center (VNTSC), has studied the impact of auxiliary lights as alerting devices to improve locomotive visibility. A copy of the final report was placed in the docket of this rulemaking.

As part of this study, FRA initially evaluated various lighting systems, paint schemes, and reflective materials. Four of the alerting light systems were selected for further study: standard locomotive headlights and crossing, ditch, and strobe lights. FRA evaluated the lights for compliance with FRA's interim advisory standards and for cost and reliability and conducted field tests on their ability to increase an approaching train's visibility.

The results were that the addition of auxiliary lights significantly increased train visibility compared to the use of standard headlights alone. Results indicated a 10 to 20 percent increase in the distance an approaching train can be recognized. Tests also indicated that motorists are better able to predict the time it takes for an approaching train to enter a crossing. Limited data collected from three railroads participating in the study suggested that accident rates drop significantly when auxiliary lights are used.

The AAR dismisses FRA's findings on two grounds; one, that the field tests did not adequately reproduce real conditions at highway-rail grade crossings; and, two, that FRA failed to separate locomotives that were and were not equipped with auxiliary lights when it determined there was a drop in the accident rate after auxiliary lights were installed on some locomotives.

FRA replies that the field tests were not intended to simulate real conditions at highway-rail grade crossings. They were intended to compare the responses of a selected group of subjects to the approach of trains with several configurations of auxiliary lights, and a control sample with no auxiliary lights. Real conditions at highway-rail grade crossings involve so many variables that testing for all possible conditions would not have been possible within the time and resources available for this project. The tests were successful in measuring the subjects'' response to the carefully selected parameters.

The in-service accident data was requested from the participating railroads by VNTSC after the periods for which the data had been accumulated. FRA used data that was available at the time, and the data had not been collected with this rulemaking in mind. Therefore, the data was not available for an ideal detailed statistical analysis. However, the trend favoring the accident-reduction potential of auxiliary lights was obvious throughout the analysis that was performed and reported by VNTSC.

Section Analysis

1. Three-Light Triangle: § 229.125(d)

It continues to be FRA's belief that a uniform light configuration on locomotives will help the public become familiar with and quickly recognize the appearance of an approaching locomotive. A configuration of three front-mounted lights is the most common system adopted by the railroad industry since the issuance of the first interim rule in 1993. Those three lights form a triangle with one major dimension (base or vertical axis) of at least 60 inches.

In its post-hearing comments, AAR objects to the standard measures used for placing auxiliary lights. AAR argues that 236 Canadian National locomotives, which operate over the United States border with Canada, would have to be refitted to come into compliance since their auxiliary lights are not arranged as required by this rule. As an AAR spokesman at the public hearing states, however, ''[w]e could understand FRA is looking toward standardization of some type over time, and we support that.''

FRA is indeed concerned with giving a consistent warning so motorists are not confused. In addition, the Canadian National filed comments with FRA addressing the NPRM and did not raise this objection. FRA did, however, consider AAR's latest comment.

The normal human eye can discern two objects as separate when the objects are spaced to form a visual angle of approximately one-half of one degree. When the lights are seen as separate, the observer can better estimate the speed of an approaching train because as the locomotive moves closer the lights will appear to move further apart. It is the goal of this rule to give a uniform warning. If the lights are arranged in a standard position, then motorists at grade crossings will become accustomed to judging the train's rate of approach. If the distance between the lights vary, from locomotive to locomotive, then the motorists will not be receiving a consistent warning. The Canadian National locomotives have a maximum axis of as little as 44.5 inches. The smaller axis reduces the distance at which the lights can be discerned as separate, and would give a false visual indication of a greater than actual distance from the train.

It is also unclear under what circumstances these Canadian National locomotives will operate in this country, or if all of these locomotives are intended to be used in the United States. Given the fact that all carriers have been aware of the proposed dimensions for several years, it is difficult to understand why locomotives in use in this country would have been fitted with auxiliary lights which were not in compliance with the interim standards or the NPRM.

Given the prevalence and practicality of the three-light triangle system, the desire for a uniform appearance of an approaching locomotive, and the physical advantages of this system, FRA believes it to be the best lighting system to accomplish the purpose of this rule.

The dimensions for the three-light triangle are the same as those specified in the interim rule as revised on May 13, 1994. Those dimensions were prescribed as the result of comments made on the first interim rule of February 3, 1993. They are functionally the same, but the second interim rule permitted more flexibility in light placement on locomotives to accommodate various locomotive configurations and placement of other vital appliances. FRA will, however, permit the light arrangement on the Canadian National locomotives to be grandfathered. Any locomotive equipped before May 30, 1994, with a

three-auxiliary-light arrangement with one axis at least 44 inches, will be considered in compliance with this rule until such time as the locomotive is rebuilt or retired. This liberalization of the grandfathering provision will validate early investment in visibility measures that increase safety.

The 36-inch minimum vertical axis requirement aids the observer's sight distance. The maximum vertical curve recommended by the American Railway Engineering Association for main track has a rate of change of grade of 0.2 percent per 100 feet. On this vertical curve, a light three feet above the track will be visible to an observer at a distance of 1,095 feet, provided the observer's eyes are three feet above the track. A reduction in height of one foot, of either the observer or the light, reduces the sight distance by approximately 100 feet.

One comment to the first interim rule requested a lower height above the rail for lights on cab control cars in suburban passenger service. FRA believes that an inflexible requirement to place lights on cab control cars or other multiple unit locomotives as defined in this regulation at a height of 36 inches might lead to a reduction in the integrity of the car body structure at this critical location. Such reduced structural integrity could increase the risk of injury to the occupants of the equipment in the event of an accident. The final rule would therefore permit auxiliary lights to be mounted at heights down to 24 inches above the rail on equipment that would not readily accommodate a higher placement.

However, the lower, 24-inch minimum height for multiple unit locomotives and cab control cars is not suitable for general railroad service, owing to the reduced visibility on vertical curves, and susceptibility to damage from snow and foreign material away from commuter lines. FRA therefore retains the minimum height of 36 inches for auxiliary lights for all other applications.

Horizontal orientation of the auxiliary lights should also be reasonably uniform in order to ensure recognition. FRA has selected the ''crossing light'' configuration (focused within plus or minus 15 degrees of a line parallel to the centerline of the locomotive) in lieu of the extreme ''ditch light'' configuration as described in the grandfathering rule (turned outward up to 45 degrees). In the extreme ditch light configuration, there appears to be a risk that the auxiliary lights might affect the night vision of motorists on parallel roadways. Several parties commented that this was a legitimate fear, although no direct evidence was presented.

FRA had also requested comment as to whether a dimmer feature should be required for auxiliary lights similar to the dimmer used on headlights. The comments received on this point indicated that the dimmer feature would be unnecessary. FRA can identify no compelling safety need for a dimmer on auxiliary lights. The one argument made for dimmers was that the device might prevent blinding motorists. As noted above, FRA believes that aligning the lights as required in the final rule should reduce this possibility. Several parties also argued that requiring dimmers would significantly increase installation cost per locomotive.

The interim rule and the proposed rule provided a minimum intensity requirement of 200,000 candela for each auxiliary light. The criterion assumes steady-state operation. Field observations suggest that current alerting light pulsing systems provide more than adequate effective candela; however, research conducted to date evaluated only strobe lights for effective intensity in a pulsing or flashing mode. No comments were received suggesting a separate effective intensity requirement be stated in the final rule for systems that operate pulsing. At this time, FRA can identify no compelling safety reason to set a different candela intensity for pulsing auxiliary lights.

FRA's final rule permits the use of either the steady-state or pulsing auxiliary lights, drawing permissible features from both the ''ditch lights'' and ''crossing lights'' as described in the interim requirements.

It should be noted that nomenclature for auxiliary lights is not standard. For example, most non-pulsing installations referred to by railroads as ''ditch lights'' have, in practice, been aligned within 15 degrees of centerline and would therefore meet FRA's requirements for permanent auxiliary lights. This rule does not elect a single option from among the configurations that railroads continue to evaluate. Rather, it proposes a minimum standardization of placement and alignment of the two auxiliary lights that, with the locomotive headlight, form the distinct triangle.

Speed Limits

Much comment has been received concerning FRA's low speed exclusion from the auxiliary lights requirement. FRA proposed this exception for two reasons; one, accidents at lower speeds are significantly less likely to cause injuries or fatalities (for example, on an annual average, 92 percent of accident fatalities occur at speeds greater than 20 miles per hour); and two, FRA believed the cost of equipping these locomotives, which are, on average, nearer the end of their useful life, would not produce the justifying benefits, given the shorter time for recovering the costs of upgrading.

FRA originally considered requiring the use of auxiliary lights only during the 20 seconds before a locomotive entered a public highway-rail grade crossing. It was quickly concluded, however, that it would be too difficult for a train operator to tell whether or not he was 20 seconds approach time from the crossing. FRA concluded, therefore, that the interest of safety would be best served if all locomotives required by this rule to be equipped with auxiliary lights were required to use those lights whenever the locomotive is moving. Only locomotives which never exceeded 20 miles per hour would be allowed to operate without ever using auxiliary lights.

AAR, ASLRA, and parties representing tourist railroads requested an increase in this speed limit. These parties asked that FRA raise the speed exclusion to 30 miles per hour. FRA has considered this option and also the option of raising the limit to 25 miles per hour. After much consideration, FRA has concluded that the projected reduction in accidents that would occur at speeds greater than 20 miles per hour if locomotives at those speeds were equipped with auxiliary lights significantly outweighs any cost savings from not having to equip the affected class of locomotives.

FRA also believes that having large numbers of unequipped locomotives would confuse the public. Many unequipped locomotives would be able to operate on freight main lines if the speed were significantly raised. Motorists crossing such lines will likely expect to see the light triangle. This might be particularly true in rural areas where many crossings are only passively signed. FRA's analysis of costs and benefits, discussed further below, confirmed the positive contribution that auxiliary lights can make to grade crossing safety, even at speeds only slightly above 20 miles per hour. FRA therefore will retain the 20 miles per hour speed exclusion.

FRA is required to issue a rule that would require that by December 31, 1997, locomotives be equipped with a form of auxiliary lights. In order to develop additional information that may later provide a basis for distinguishing between steady-burning and alternately-pulsing arrangements, AAR has indicated that they would conduct a

further study under which two or more major railroads would equip portions of their fleets used in the same service with steady and pulsing lights. In order to eliminate transient effects, the study would follow the two matched fleets for a period of approximately three years. The progress of this study will be tracked on an annual basis, and at the conclusion of the study, FRA will review the data to determine if a statistically significant difference can be discerned between the effectiveness of steady and flashing lights. The results of the study should provide a factual basis for determining whether further refinement of the rule is appropriate and, if so, the degree of urgency associated with any such change.

2. Flash Rates: § 229.125(e)

Subsection (e) provides that auxiliary lights may be illumined continuously or may be arranged to flash on approach to a highway-rail grade crossing. If flashing lights are used, the rate must be not fewer than 40 and not more than 180 per minute, as provided in the second interim rule. FRA has received no negative comments regarding the range of flash rates permitted for locomotive visibility lights in the second interim rule or the NPRM. The rates are constrained by the need for visibility but also the need to avoid a ''flicker vertigo'' effect on train crew members.

FRA leaves control of flashing lights to the discretion of the railroad. Depending on their operations, some railroads might consider it advisable to interconnect the horn and lighting controls to provide joint activation when approaching a crossing, but that question need not be addressed in a regulation.

3. Operation of Auxiliary Lights: § 229.125(f)

In subsection (f), FRA proposed to require operation of auxiliary lights for a period of at least 20 seconds prior to arrival of the locomotive at the crossing. FRA received comments, however, that estimating the approach time to a crossing is too difficult an assignment to be reliably carried out by the locomotive engineer. FRA agrees that this is an unfair responsibility to place on the train crew. The Final Rule, therefore, requires continuous use of auxiliary lights. Railroads using locomotives with flashing lights shall include in the railroad's operating rules standard procedures for use of this model of auxiliary light.

FRA received several comments from railroads asking allowance for not using auxiliary lights under certain circumstances for the safety of motorists, or railroad employees working in the area, or for certain weather conditions. FRA believes that any exception should be made only in the best interest of safety to avoid grade crossing accidents where there has been a railroad decision not to use the auxiliary lights.

Railroads may wish to extinguish auxiliary lights when the headlight is dimmed under existing operating rules. Rule 5.9 of the General Code of Operating Rules, for instance, requires that the headlight be dimmed at stations and yards where switching is done, when the engine is stopped close behind another engine, when passing another train, and under other specified circumstances.

FRA will allow railroads subject to this rule to except, for a public safety purpose, auxiliary light use at any highway-rail grade crossing so designated in the railroads'' operating rules, timetable, or special order. These exceptions will be subject to disapproval by FRA's Associate Administrator for Safety, or one of FRA's Regional Administrators, after investigation and opportunity for response by the railroad, for good cause stated.

FRA believes there will be little burden on the industry from this requirement since it is currently standard practice for railroads to so print such directions for use by train crews. Under existing railroad rules, there are few exceptions, limited primarily to situations where two trains are approaching each other and it is necessary to avoid blinding their respective locomotive engineers.

4. Other Uses of Auxiliary Lights: Proposed § 229.125(g)

FRA's proposed subsection (g) is deleted from the Final Rule. Continuous use of auxiliary lights is now required for any lead locomotive that is equipped with such lights.

5. Defective En Route: § 229.125(g)

FRA's proposed subsection (h) is relettered, and its provisions are now contained at subsection (g).

FRA received comments from several carrier representatives that more flexibility was needed for making auxiliary light repairs. FRA's proposed subsection regarding movement of defective locomotives permitted a lead locomotive with one defective auxiliary light to proceed to a point where repairs could be made. If both auxiliary lights were out, § 229.9 (movement of non-complying locomotives) would apply, which would ordinarily require that the locomotive be switched to a trailing position or be operated at less than 20 miles per hour. It should be noted that the requirement for auxiliary lights applies only to a lead locomotive.

FRA recognizes that light failures should be infrequent, and accidents occurring during a period of failure even more rare. Although each is important, the large number of safety items on a locomotive presents a challenge with respect to appropriate use of an asset that may be valued as high as two million dollars.

FRA's final rule requires that if either of the two auxiliary lights on a lead locomotive is inoperative at an initial terminal, then each inoperative auxiliary light must be fully repaired prior to the train's departure. At any other time, a lead locomotive may continue with one auxiliary light out to the place where the next calendar day inspection is conducted. An en route failure of both lights would require repair at the next location in the direction of movement where repairs of the kind can be made. This movement must be consistent with § 229.9.

6. Exception for Historic Equipment: § 229.125(h)

FRA also received comments on its proposed rule from parties concerned with historic locomotive models that are not steam driven. FRA agrees that requiring these rare locomotives to be equipped with auxiliary lights is unnecessary and would compromise their historic appearance. These locomotives, including inter-urban electric cars, operate at low speeds on limited operations, and generally during daylight hours. Fitting these historic locomotives with auxiliary lights can entail the upgrading of the entire electrical system. This expense seems unnecessary. FRA has been informed that these locomotives were no longer built after the end of 1948. FRA will therefore allow an exception for historic locomotives built before December 31, 1948. This exception does not apply to any locomotive used in regular commuter or inter-city passenger service. This exception does apply to locomotives operated by historic or tourist railroads.

In 1992, FRA reviewed its policy regarding tourist, scenic and excursion railroads that transport passengers on lines separate from the general railroad system of transportation. While in the past FRA has usually limited its exercise of jurisdiction over passenger operations to those on the general system, FRA determined that public safety required a uniform floor of regulation for this growing segment of the railroad marketplace. Only those

railroads deemed ''insular'' were excluded from this exercise of jurisdiction; however, several existing sets of regulations, including Part 229, do not apply to passenger railroads that are not part of the general rail system. Since a major criterion of non-insular status is the presence of a public highway-rail grade crossing, the issue is presented in this proceeding whether these non-general system railroads should be required to equip their locomotives with auxiliary alerting lights.

FRA has determined that any passenger railroad that is not part of the general railroad system of transportation should not be required to comply with this rule. The small number of locomotives, if any, that would fit in this category present little safety risk at grade crossings. These trains tend to operate at lower speeds, carry fewer passengers over grade crossings, and are used predominately during daytime when visibility is better. This locomotive visibility rule already excludes locomotives operated at 20 miles per hour or less. This exclusion renders the rule inapplicable to many non-steam locomotives owned and operated by passenger railroads off the general system.

7. Grandfathering: § 229.133

The interim provisions on auxiliary lights are contained in 49 CFR 229.133. Subsection (c), which makes use of auxiliary lights elective during the period prior to December 31, 1997, would be repealed on that date.

The interim provisions identify four alerting light arrangements that FRA believed would increase locomotive visibility. First, ditch lights, which are composed of two white lights focused within 45 degrees of the longitudinal centerline of the locomotive. Second, strobe lights, which are two white stroboscopic lights that flash at a rate between one pulse every 1.0 to 1.3 seconds. Third, crossing lights, which are two white standard lights that flash at the same rate as the strobes and are focused within 15 degrees of the longitudinal centerline of the locomotive. And the final alerting lights system, an oscillating light, which is composed of one or more white lights that cast a moving beam in circular or elliptical shapes in front of the locomotive. These alerting light systems will be ''grandfathered'' and considered in temporary compliance with any final rule.

By law, ''grandfathered'' auxiliary lights installed before the final rule is issued may continue in use for four years from the date the final rule is issued.

During the comment period on the NPRM, FRA was asked to extend the grandfathering period beyond the minimum set by the statute. This request was referred to as ''supergrandfathering.'' These comments concerned oscillating and strobe lights.

FRA did consider the use of oscillating lights and strobe lights for inclusion in the NPRM and final rule in § 229.125(d). Both light systems offer significant advantages but have unique drawbacks. An oscillating light can provide a startling effect when the light rapidly reflects off nearby objects, fog, or snow. However, in general, oscillating lights are costly and difficult to maintain. Oscillating lights have often been used individually, a configuration inconsistent with the triangular signature common in European railroad operators.

Desirable effects can also be achieved with pulsating strobe lights, particularly those lights operated in pairs. However, extensive use of strobe and oscillating-type lights on emergency vehicles has reduced their usefulness as a distinct warning of an approaching train. Further, strobe lights can tend to wash out against a light background and may not compete well for attention in a nighttime environment with a variety of light sources.

Research in support of this proceeding indicates that crossing lights and ditch lights—the auxiliary lights most widely used by U.S. railroads—also appear to perform well under both experimental conditions and in revenue service. Experimental field tests compared the performance of a lone headlight with combinations of a headlight and each of the following:

(i) pulsing ''crossing lights'' that were aligned straight down the railroad,

(ii) steady burning ''ditch lights'' that were outwardly aligned at 15 degrees, and

(iii) dual strobe lights mounted on the top of the locomotive.

All three types of auxiliary lights outperformed the lone headlight by significantly increasing the distance a train can be detected and improving an observer's ability to estimate a train's arrival time at the crossing. For detection distance, the crossing light performed best, followed by the ditch and strobe lights. With respect to estimation of time of arrival, the crossing lights were judged to result in the smallest estimation errors for actual arrival time intervals between 7 and 22 seconds. However, the ditch lights clearly aided estimation of arrival, as well.[1]

The Volpe Center gathered limited data from Norfolk Southern, Conrail, and CalTrans (California) comparing accident experience of locomotives equipped with crossing lights to locomotives equipped with a headlight alone. These data suggest that the use of crossing lights may result in a greater than 50- percent reduction in accident rates. Although these trials lasted from only nine to twenty-four months, and some of the accident reduction may have resulted from a ''novelty effect'' (an initial impact that wanes as risk-taking motorists become accustomed to the new lights), there is no reason to believe that there will not be substantial and continuing benefits from use of auxiliary lights.

All of the service applications examined by the Volpe Center involved pulsing auxiliary lights, and the experimental field tests potentially relevant to this issue involved a confounding variable (angle of alignment). Accordingly, no empirically-based comparisons can be made at this time between lights that pulse (alternately flash) on approach to a crossing and those that burn steadily.

FRA agrees with those parties who argued that evidence that crossing lights are superior is not, however, extensive. FRA also recognizes that it has been the agency's policy to encourage early installation of auxiliary lights. Many carriers made just such good faith investments in safety. FRA therefore will permit ''supergrandfathering'' for certain light arrangements. The final rule will consider oscillating lights, installed in newly-acquired equipment ordered prior to January 1, 1996, as permanently grandfathered. Use of these lights is concentrated in low speed and commuter operations over territories where an oscillating pattern should provide significant benefits. Strobe lights will be permitted on a locomotive until the locomotive is retired or rebuilt. Strobe lights will be permanently grandfathered on any locomotive that is limited to operating at speeds no greater than 40 miles per hour. FRA believes this approach best validates early

[1] In the field tests, observers wore headphones to mask noise from the oncoming locomotive. FRA has conducted separate analyses that indicate locomotive horns provide a very powerful (though not always sufficient) warning to motorists that the train is present and its arrival at the crossing is imminent. FRA recognizes that some overlap may exist between the two warning systems; however, to the extent this overlap may be beneficial in modifying risky behavior, its potential should be exploited. The actual service experience tends to confirm the possibility that such an effect may exist.

investment in safety, while encouraging uniform light configurations.

FRA notes that application of strobe or oscillating lights, as attention-getting supplements to the triangular pattern of auxiliary lights made standard by this rule, can have further beneficial effects on safety. Nothing in this final rule should be construed to discourage use of such systems as supplements to the triangle pattern, either through retention of existing lights or new installations.

Related Issues

Reflective Materials

The enabling legislation requires that the Secretary consider the use of reflective materials to enhance locomotive visibility. Research has shown that the frontal visibility of a locomotive displaying a headlight is not affected by reflective material or distinctive colors. The headlight is visible at a far greater distance than any light reflected from the front of the locomotive.

Analysis of the 4,240 highway-rail grade crossing accidents reported to FRA in 1993 shows that the lead locomotive of a train struck the motor vehicle in 3,171 of the accidents. The motor vehicle struck the lead locomotive in 664 accidents. In the remaining 405 accidents, the motor vehicle struck the train at a point behind the lead locomotive.

This information suggests that enhancing the visibility of the front of the train could affect up to 90 percent of crossing accidents. The effect of increasing the visibility of the side of the train does not have as clearly defined a potential to reduce accidents. Nevertheless, FRA continues to conduct research, including analysis of recently designed retro-reflective materials and evaluation of the accident experience of car fleets equipped with retro-reflective material. FRA is required by other legislation to consider the use of retro-reflective materials on railroad cars as well as locomotives, and will address the issue in a separate proceeding. See 49 U.S.C. 20148, Pub. L. 103–440, § 212 (Nov. 2, 1994). As soon as sufficient information becomes available to support a decision on whether to place reflective material on cars and locomotives, FRA will act accordingly.

Applicability: Steam Locomotives

This rule amends Part 229 of title 49, Code of Federal Regulations, which applies, in general, to railroads in the general system and only to non-steam locomotives. FRA believes that, as a general rule, steam locomotives are used with relatively less frequency or at lower speeds than non-steam locomotives. Equipping steam locomotives with alerting lights would cost more per locomotive because of the need to update generators, and some steam operators have commented that the modification would detract from the historic authenticity of this antique equipment. FRA presently has insufficient specific information indicating that safety would benefit from application of auxiliary lights to steam locomotives.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures and is considered ''nonsignificant'' under Executive Order 12866. It is also considered to be not significant under DOT policies and procedures. See 44 FR 11034.

Although the rule is ''nonsignificant,'' FRA nonetheless has prepared a regulatory evaluation addressing the economic impact of the rule. This regulatory evaluation has been placed in the docket and is available for public inspection and copying during normal business hours in Room 8201, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies may also be obtained by submitting a written request to the FRA Docket Clerk at the above address.

The evaluation found costs and benefits associated with this rule calculated for a twenty-year period using the seven percent discount rate required by federal regulatory evaluation guidelines.

This rule allows two distinct light system specifications—a pulsing light system and a steady beam light system. Auxiliary light requirements can be met by equipping locomotives with the lower cost steady beam lights. However, realistically, some locomotives will have steady beam lights installed and others will have pulsing lights installed. Information available to FRA suggests that at least 8,327 locomotives are currently equipped with auxiliary lights complying with the rule. About 52.84 percent of these locomotives have pulsing lights. The remainder (47.16 percent) have steady beam lights. Small operators involved mainly in shortline service may choose to equip their affected locomotive fleet with the less expensive steady beam lights. Assuming locomotives which operate at speeds below 30 m.p.h. are equipped with steady beam lights and all others continue to be equipped in the current proportions, we expect twenty-year costs to total about $83 million. This includes installation and maintenance costs which the railroad industry would not incur in the absence of this rule.

Although specifications for pulsing and steady beam lights differ, data is not available to establish that one light system is more effective than the other. This analysis assumes both are equally effective than the other. For total benefits of the auxiliary lights to justify incurring $83 million in costs, use of the lights must prevent an average of about nine accidents annually. FRA estimates that the use of auxiliary lights will prevent at least 3,300 grade crossing accidents (involving about 750 fatalities and 1,800 injuries) valued at $1.3 billion over twenty years, or an average of about 165 accidents annually. Analysis indicates this accident reduction will almost certainly be achieved and probably will be substantially exceeded as a result of using auxiliary lights. The benefit/cost ratio is 15.7:1.

Analysis of costs and benefits of locomotives operating at maximum speeds between 21 and 25 m.p.h. indicates that for that particular sector this rule has a benefit/cost ratio of no less than 1.3:1. The return on investment represented by the ratio is relatively lower for this sector. However, the increased safety still justifies incurring the costs associated with applying the rule to this sector.

Costs and benefits associated with the in-service tests are not quantified in this analysis. FRA recognizes that participating railroads will incur data collection costs. However, given the permissive nature of the industry in-service tests, we cannot determine the level of participation or the magnitude of costs which the industry will incur. Nevertheless, safety benefits resulting from application of the knowledge gained should far outweigh costs incurred by the participants. Including test costs would not change the final outcome of this analysis.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities, unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. It is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule will require that railroads note any grade crossings excluded from

auxiliary light use in the railroads'' operating rules, time tables, or special orders. It is therefore necessary to estimate the public reporting burden for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

FRA is currently preparing this analysis. Once it is completed, before the rule takes effect in December, 1997, the paperwork reduction review will be placed in the docket.

FRA is anticipating a minimal paperwork impact from this rule given the fact that railroad operating rules standardly contain the type of operating instructions now required by FRA.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedures for ensuring full consideration of the environmental impact of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and DOT Order 5610.1c. It has been determined that this rule will not have any effect on the quality of the environment.

Federalism Implications

This rule will not have a substantial effect 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, a Federalism Assessment is not necessary.

Under 49 U.S.C. 20106 (superseding at 45 U.S.C. 434), issuance of this regulation preempts any State law, rule, regulation, order, or standard covering the same subject matter, except for a provision directed at a local safety hazard if that provision is consistent with this rule and does not impose an undue burden on interstate commerce.

List of Subjects in 49 CFR Part 229

Railroad safety.

The Final Rule

In consideration of the foregoing, FRA amends Part 229, Title 49, Code of Federal Regulations as follows:

1. The authority citation for Part 229 is revised to read as follows:

Authority: 49 U.S.C. 20102–20103, 20110–20112, 20114, 20133, 20137, 20138, 20143, 20301–20303, 20306, 20701–20703, 21301-21302, 21304, 21306, and 21311; 49 CFR 1.49 (c), (g) and (m).

2. Section 229.9 is amended by revising paragraph (a) introductory text to read as follows:

§ 229.9 Movement of non-complying locomotives.

(a) Except as provided in paragraphs (b), (c) and § 229.125(h), a locomotive with one or more conditions not in compliance with this part may be moved only as a lite locomotive or a dead locomotive after the carrier has complied with the following:

* * * * *

3. Section 229.125 is amended by revising the section heading and by adding (d), (e), (f), (g), and (h) to read as follows:

§ 229.125 Headlights and auxiliary lights.

* * * * *

(d) Effective December 31, 1997, each lead locomotive operated at a speed greater than 20 miles per hour over one or more public highway-rail crossings shall be equipped with operative auxiliary lights, in addition to the headlight required by paragraph (a) or (b) of this section. A locomotive equipped on March 6, 1996 with auxiliary lights in conformance with § 229.133 shall be deemed to conform to this section until March 6, 2000. All locomotives in compliance with § 229.133(c) shall be deemed to conform to this section. Auxiliary lights shall be composed as follows:

(1) Two white auxiliary lights shall be placed at the front of the locomotive to form a triangle with the headlight.

(i) The auxiliary lights shall be at least 36 inches above the top of the rail, except on MU locomotives and control cab locomotives where such placement would compromise the integrity of the car body or be otherwise impractical. Auxiliary lights on such MU locomotives and control cab locomotives shall be at least 24 inches above the top of the rail.

(ii) The auxiliary lights shall be spaced at least 36 inches apart if the vertical distance from the headlight to the horizontal axis of the auxiliary lights is 60 inches or more.

(iii) The auxiliary lights shall be spaced at least 60 inches apart if the vertical distance from the headlight to the horizontal axis of the auxiliary lights is less than 60 inches.

(2) Each auxiliary light shall produce at least 200,000 candela.

(3) The auxiliary lights shall be focused horizontally within 15 degrees of the longitudinal centerline of the locomotive.

(e) Auxiliary lights required by paragraph (d) of this section may be arranged

(1) to burn steadily or

(2) flash on approach to a crossing.

If the auxiliary lights are arranged to flash;

(i) they shall flash alternately at a rate of at least 40 flashes per minute and at most 180 flashes per minute,

(ii) the railroad's operating rules shall set a standard procedure for use of flashing lights at public highway-rail grade crossings, and

(iii) the flashing feature may be activated automatically, but shall be capable of manual activation and deactivation by the locomotive engineer.

(f) Auxiliary lights required by paragraph (d) of this section shall be continuously illuminated immediately prior to and during movement of the locomotive, except as provided by railroad operating rules, timetable or special instructions, unless such exception is disapproved by FRA. A railroad may except use of auxiliary lights at a specific public highway-rail grade crossing by designating that exception in the railroad's operating rules, timetable, or a special order. Any exception from use of auxiliary lights at a specific public grade crossing can be disapproved for a stated cause by FRA's Associate Administrator for Safety or any one of FRA's Regional Administrators, after investigation by FRA and opportunity for response from the railroad.

(g) Movement of locomotives with defective auxiliary lights.

(1) A lead locomotive with only one failed auxiliary light must be repaired or switched to a trailing position before departure from the place where an initial terminal inspection is required for that train.

(2) A locomotive with only one auxiliary light that has failed after departure from an initial terminal, must be repaired not later than the next calendar inspection required by § 229.21.

(3) A lead locomotive with two failed auxiliary lights may only proceed to the next place where repairs can be made. This movement must be consistent with § 229.9.

(h) Any locomotive subject to Part 229, that was built before December 31, 1948, and that is not used regularly in commuter or intercity passenger service, shall be considered historic equipment and excepted from the requirements of paragraphs (d) through (h) of this section.

4. Amend § 229.133 by revising paragraph (c) to read as follows:

§ 229.133 Interim locomotive conspicuity measures—auxiliary external lights.

* * * * *

(c)(1) Any lead locomotive equipped with oscillating lights as described in paragraph (b)(4) that were ordered for installation on that locomotive prior to

January 1, 1996, is considered in compliance with § 229.125(d) (1) through (3).

(2) Any lead locomotive equipped with strobe lights as described in paragraph (b)(2) and operated at speeds no greater than 40 miles per hour, is considered in compliance with § 229.125(d) (1) through (3) until the locomotive is retired or rebuilt, whichever comes first.

(3) Any lead locomotive equipped with two white auxiliary lights spaced at least 44 inches apart on at least one axis which was equipped with these auxiliary lights before May 30, 1994, will be considered in compliance with § 229.125(d) (1) through (3) until the locomotive is retired or rebuilt, whichever comes first.

Appendix B [Amended]

5. Amend Appendix B to Part 229—Schedule of Civil Penalties—by adding in numerical sequence by section number the following:

Section	Violation	Willful violation
* * *	*	*
229.125:		
(a) Headlights	2,500	5,000
(d) Auxiliary lights	2,500	5,000
* * *	*	*

Issued in Washington, DC, on February 28, 1996.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 96–4838 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 030196B]

Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific cod for processing by the inshore component in the Western Regulatory Area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 2, 1996, until 12 midnight, A.l.t., December 31, 1996.

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

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

In accordance with § 672.20(c)(1)(ii)(B), the allocation of Pacific cod for processing by the inshore component in the Western Regulatory Area was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996) as 16,965 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the allocation of Pacific cod total allowable catch for processing by the inshore component in the Western Regulatory Area soon will be reached. The Regional Director established a directed fishing allowance of 15,965 mt, with consideration that 1,000 mt will be taken as incidental catch in directed fishing for other species in the Western Regulatory Area. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 672.20(g).

Classification

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

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

Dated: March 1, 1996.

Richard W. Surdi,

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

[FR Doc. 96–5228 Filed 3–1–96; 2:35 pm]

BILLING CODE 3510–22–P

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 022996B]

Groundfish of the Bering Sea and Aleutian Islands Area; Inshore Component Pollock in the Bering Sea subarea

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first allowance of the pollock total allowable catch (TAC) for vessels catching pollock for processing by the inshore component in the BS.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 2, 1996, until 12 noon, A.l.t., April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the first seasonal allowance of pollock for the inshore component in the BS was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) as 159,311 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined in accordance with § 675.20(a)(8), that the first seasonal allowance of pollock TAC for vessels catching pollock for processing by the inshore component in the BS soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 147,311 mt with consideration that 12,000 mt will be taken as incidental catch in directed fishing for other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the BS. This closure is effective March 2, 1996, until

12 noon, A.l.t., April 15, 1996. Under § 675.20(a)(2)(ii), the second seasonal allowance will be available from 12 noon, A.l.t., August 15 through the end of the fishing year.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

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

Dated: February 29, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Mmarine Fisheries Service.

[FR Doc. 96–5181 Filed 3–1–96; 10:23 am]

BILLING CODE 3510–22–F

---

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 022996A]

Groundfish of the Bering Sea and Aleutian Islands Area, Trawl Closure to Protect Red King Crab

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS has determined that an interim closure to all trawling is necessary in a part of the Bristol Bay area of the Bering Sea and Aleutians Islands (BSAI) management area. Results of the 1995 bottom trawl survey conducted by NMFS in Bristol Bay indicate that the red king crab stock in Bristol Bay continues to be severely depressed. NMFS anticipates that the condition of this stock could worsen if vessels fishing for groundfish with trawl gear were allowed to conduct operations in a particular part of Bristol Bay that is important to red king crab during a period after they have molted and are in a softshell condition. NMFS is closing part of Bristol Bay to trawling for groundfish for purposes of protecting red king crab from anticipated adverse impacts due to trawl operations. This measure is necessary to respond to the continued decline of red king crab stocks in the BSAI management area. It is intended to accomplish the objectives of the North Pacific Fishery Management Council (Council) with respect to management of red king crab stocks.

DATES: Effective April 1, 1996, through June 15, 1996. Comments must be submitted by April 5, 1996.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

High rates of prohibited species bycatch may warrant inseason adjustment to close an area to fishing for groundfish. Authority for interim closures of a specific area is contained in regulations at § 675.20(e). This inseason adjustment prohibits fishing for groundfish by operators of vessels using trawl gear from April 1, 1996, through June 15, 1996, in that portion of the Bering Sea that is bounded by straight lines connecting the following coordinates in the order listed below.

Latitude	*Longitude*
56°00′ N.;	163°00′ W.;
56°00′ N.;	164°00′ W.;
57°00′ N.;	164°00′ W.;
57°00' N.;	163°00′ W.; and
56°00′ N.;	163°00′ W.

This action is necessary to protect depressed stocks of red king crab from being taken by the groundfish trawl fisheries during a period when the crab are in a softshell condition and are particularly vulnerable to injury. Further reasons for the inseason adjustment under § 675.20(e)(1)(iv) follow.

Results of the 1995 NMFS-conducted bottom-trawl survey in Bristol Bay indicate that the total population of red king crab continues to be at low levels. Although the number of legal male red king crab was 6.3 million, which represents a 15 percent increase from 1994, the number of pre-recruits was 5.4 million, which represents an 11 percent decrease from 1994. The number of large female crab was 8.0 million, which is 400,000 fewer than the number considered to be the ''threshold'' in the FMP for the Commercial King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands (crab FMP). Under the crab FMP, the Acceptable Biological Catch in the directed red king crab fishery is defined as zero when the female red king crab stock is at or below threshold. Accordingly, the Alaska Department of Fish and Game (ADF&G) closed the directed red king crab fishery in 1995.

Likewise, because NMFS survey results in 1994 also indicated that the number of female red king crab was below threshold, ADF&G closed the red king crab fishery in 1994. Due to the 1994 and 1995 closures of the red king crab fishery in Bristol Bay, ADF&G closed the area east of 163° W. longitude to Chionoecetes bairdi Tanner crab fishing for both years to reduce incidental mortality of red king crab in this area.

The Council responded to the 1994 results by recommending that NMFS close by emergency rule an area between 56° and 57° N. lat. and 162° and 164° W. long. to trawling during the rock sole roe fishery. NMFS implemented that emergency rule (60 FR 4866, January 25, 1995), and it remained in effect from January 20 through April 25, 1995. At that time, the Council directed its staff to analyze alternative closure areas that could be implemented permanently under an FMP amendment to provide long-term protection to Bristol Bay red king crab.

At its September 1995 meeting, the Council recommended implementation of proposed Amendment 37 to the FMP, an action similar to the emergency rule. This includes a closure of the Red King Crab Savings Area to vessels using non-pelagic trawl gear as well as an increase in observer coverage. NMFS has not yet received that amendment from the Council for review under Section 304 of the Magnuson Act.

On January 20, 1996, NMFS implemented an inseason adjustment (60 FR 63451, December 11, 1995) under its authority at 50 CFR 675.20(e) to close the above-described area through March 31, 1996. The purpose of this action was to protect female red king crab during a time when the trawl fishery for rock sole was ongoing.

On January 30, 1996, the Council met jointly with the Alaska Board of Fisheries (BOF) and reviewed the best available scientific information about the status of red king crab and the potential effectiveness of measures that have been taken to protect red king crab.

The Council and BOF were especially concerned about potential adverse impacts of trawl operations on red king crab during a period when crab are in a softshell condition. This condition occurs during the months of January through mid-June when crab molt and then mate. When in this softshell condition, red king crab could be damaged by physical impacts of the bottom trawl itself or by additional handling when they are caught in a trawl, brought aboard a vessel, sorted, and eventually returned to the sea. The Council also received agency reports summarizing the result of the 1995 NMFS trawl survey, which provided the aforementioned status of red king crab.

The Council and BOF heard testimony about existing management measures, including the aforementioned inseason adjustment that will be in effect through March 31, which are intended to protect red king crab in the management area. These measures include a year round closure of Federal Statistical Srea 512 to trawling, and a closure of Federal Statistical Area 516 from March 15 through June 15 to protect red king crab during their molting and mating period. An analysis of data from the NMFS-conducted trawl surveys in 1993, 1994, and 1995 indicates that a substantial proportion (19 percent) of mature male crab are located in part of Federal Statistical Area 516. This analysis also indicates that another substantial proportion (21 percent) of male red king crab is located between the same latitudes immediately to the west between 163° W. and 164° W. long. Without further regulatory action, the area west of Statistical Area 516 would open to trawling once the aforementioned inseason adjustment expires on March 31, 1996, which could aggravate the depressed condition of red king crab during the period when they are in a softshell condition.

On February 2, 1996, after reviewing new information obtained during its January 30 meeting with the BOF and additional information from the public as well as NMFS and ADF&G testimony, the Council recommended that an emergency rule be implemented to close an area in part of Bristol Bay to fishing by vessels using trawl gear through June 15, 1996. The particular area is located between 163° and 164° W. long. and 56° N. and 57° N. lat. This area is to the west of, and immediately adjacent to, Statistical Area 516, which is closed under existing regulations from March 15 through June 15. A closure of the additional area to the west through June 15 would provide necessary protection for red king crab during the period they are in a softshell condition and are particularly susceptible to fishing mortality.

The Council intends to review current management regimes that govern groundfish fishing to determine whether the protection measures afforded red king crab and other crab species managed under the crab FMP are adequate or should be changed to respond to new information concerning both the groundfish and crab fisheries. NMFS anticipates that the Council will recommend potential regulatory changes in the near future.

The Council's emergency rule recommendation is intended to avoid significant direct economic loss to fishermen who might otherwise benefit in the future as red king crab stocks rebuild to harvestable levels. Public testimony at the Council's January 1996 meeting, indicated that the groundfish trawl fishing industry was concerned about not being able to trawl for yellowfin sole in the closed area, should yellowfin sole be present during the month of April in schooling concentrations as they migrate to more northerly locations in Bristol Bay. Industry members indicated that the amount of time required to complete a tow with trawl gear may be about a ½ hour compared to more than 2 hours when yellowfin school stocks are not concentrated. If these vessel operators are not allowed to operate in the closed area, their operating costs (including fuel and crew time) could increase as they fish at lower catch rates where yellowfin sole stocks are not concentrated.

NMFS does not have information to quantify what these increased costs might be, because vessels' operating costs differ. NMFS notes that the locations of the migrating yellowfin sole might even be outside the closed area where they could still be targeted by participating vessels. The actual costs would depend on the ability of these vessel operators to achieve their harvest goals, which will depend on market conditions, catch rates, and possibly premature closures resulting from other regulations.

NMFS anticipates that large numbers of red king crab could be adversely impacted in this area by trawl operations during their softshell period. Therefore, NMFS has determined that a closure to trawling in the area described above is necessary to protect red king crab through June 15 while they are in a softshell condition. Notwithstanding the Council's recommendation that NMFS implement this closure by emergency rule, NMFS is implementing it under the inseason adjustment authority at § 675.20(e). Inseason adjustments are authorized for a period of 60 days, which would be less than the Council's intended closure period. Regulations at § 675.20(e)(6) authorize closures beyond 60 days if warranted by available data. The available scientific information indicates that the relative distribution and abundance of red king crab in the closure area is high. The Director, Alaska Region, NMFS has determined that this interim closure is based on the best available scientific information concerning the seasonal distribution and abundance of red king crab and the bycatch rates of red king crab associated with groundfish trawl fisheries.

Classification

This action is taken under § 672.20(e) and is exempt from review under E.O. 12866.

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

Dated: March 1, 1996.

Richard W. Surdi,

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

[FR Doc. 96–5227 Filed 3–1–96; 2:35 pm]

BILLING CODE 3510–22–P

---

50 CFR Part 683

[Docket No. 950803202–6040–02; I.D. 070395C]

RIN 0648–AH48

Western Pacific Bottomfish Fisheries; Enforcement of Permit and Other Requirements

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to make minor changes to regulations governing the Bottomfish Fisheries of the Western Pacific Region. In addition to making some technical changes, the rule requires operators of bottomfish vessels to display their official number to enhance enforcement, and fish dealers to make available to authorized officers records of fish landings and sales they are required by state law to maintain to facilitate monitoring of the fishery. These changes are intended to make existing regulations clearer and more effective.

EFFECTIVE DATE: April 4, 1996.

ADDRESSES: Send comments on the collection-of-information requirement to Ms. Hilda Diaz-Soltero, Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long

Beach, CA 90802–4213 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Paperwork Reduction Project 0648–0306, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. James Morgan, 310–980–4036; or Alvin Z. Katekaru, 808–973–2985.

SUPPLEMENTARY INFORMATION: The Western Pacific Fishery Management Council recommended that NMFS amend the existing regulations governing the bottomfish fishery to make the regulations clearer and more effective. The changes made by this final rule were proposed in the Federal Register on August 18, 1995 (60 FR 43106). The public comment period on the proposed changes ended on October 16, 1995. No comments were received.

The final rule makes the following changes in addition to a number of editorial changes:

1. Adding a prohibition to the prohibitions section of the regulations to clarify that fishing for bottomfish in the Mau Zone of the Northwestern Hawaiian Islands without a permit is unlawful;

2. Adding a requirement that the official number of a bottomfish vessel be prominently displayed; and

3. Adding a requirement that any person, such as fish dealers, make available to authorized officers records of fish landings and sales that are required to be maintained by state law.

Classification

This action has been determined to be not significant for the purposes of E.O. 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless the collection of information displays a currently valid OMB Control Number.

This rule contains a collection of information requirement subject to the PRA, namely the requirement that vessels display their official number in a specified manner. This collection of information has been approved by OMB under OMB Control Number 0648–0306, which expires September 29, 1998. The burden estimate for compliance is 45 minutes. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden to Hilda Diaz-Soltero, NMFS, or the Office of Information and Regulatory Affairs, OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 683

Administrative practice and procedure, Fisheries, Reporting and recordkeeping requirements.

Dated: February 29, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 683 is amended as follows:

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for part 683 continues to read as follows:

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

2. In § 683.2, the definition of ''Council'' is revised to read as follows:

§ 683.2 Definitions.

* * * * *

Council means the Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813, 808–522–8220.

* * * * *

3. In § 683.4, paragraph (d) is added to read as follows:

§ 683.4 Recordkeeping and reporting.

* * * * *

(d) Any person who is required by state laws and regulations to maintain records of landings and sales for vessels regulated by this part, shall make those records immediately available for Federal inspection and copying upon request by an authorized officer.

4. In § 683.6, paragraphs (i) and (j) are amended by removing the word ''fishing'' and replacing it with the word ''fish''; and paragraphs (f) through (k) are redesignated as paragraphs (g) through (l), respectively, and paragraphs (f), (m), and (n) are added to read as follows:

§ 683.6 Prohibitions.

* * * * *

(f) Fish for bottomfish in the Mau Zone without a permit issued under § 683.21.

* * * * *

(m) Fail to affix and maintain vessel markings, as required by § 683.9.

(n) Refuse to make available to an authorized officer for inspection any records that must be made available in accordance with § 681.4.

5. Sections 683.9 and 683.10 are redesignated as §§ 683.10 and 683.11, respectively, and a new § 683.9 is added as follows:

§ 683.9 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numerals.* In each of the three locations specified in paragraph (a), the official number must appear in block Arabic numerals at least 18 inches (45.7 cm) in height for fishing vessels of 65 ft (19.8 m) in length or longer, and at least 10 inches (25.4 cm) in height for other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator.* The operator of each fishing vessel subject to this part must:

(1) Keep the displayed official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 683.29 [Amended]

6. In § 683.29, paragraph (a) is amended by removing the telephone number ''808–955–8831'' and adding, in its place ''808–973–2939''.

[FR Doc. 96–5182 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 45
Wednesday, March 6, 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.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 310, 318, 319, and 381

[Docket No. 88–026E]

Substances Approved for Use in Preparation of Meat and Poultry Products—Reopening of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is reopening the comment period for the proposed rule, ''Substances Approved for Use in the Preparation of Meat and Poultry Products'' (60 FR 67459), published in the Federal Register on December 29, 1995, in response to a request for additional time to answer comments. FSIS is interested in receiving properly evaluated and thoughtful comments on the proposal. Therefore, FSIS is reopening the comment period for 60 days.

DATES: Comments must be received on or before May 6, 1996.

ADDRESSES: Send an original and two copies of written comments to: FSIS Docket Clerk, Docket #88–026P, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Stafko, Deputy Director, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 3835, South Agriculture Building, Washington, DC 20250–3700; (202) 720–7773.

Done at Washington, DC, on: February 28, 1996.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 96–5160 Filed 3–5–96; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–85–AD]

Airworthiness Directives; Airbus Industrie Model A300, A300–600, and A310 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 Airbus Industrie Model A300, A300–600, and A310 series airplanes. This proposal would require inspections to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, and repair, if necessary. This proposal is prompted by reports that fatigue cracking has been found on the lower spar of the pylon. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the lower spar of the pylon.

DATES: Comments must be received by April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–85–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–85–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–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A300, A300–600, and A310 series airplanes. The DGAC advises that fatigue cracks have been found on the lower spar of the pylon between ribs 6 and 7 on airplanes equipped with General Electric and Pratt & Whitney engines. These cracks initiated at the pylon center stiffener beyond the flat area. Fatigue cracking in this area, if not detected and corrected

in a timely manner, could result in reduced structural integrity of the lower spar of the pylon.

Relevant Service Information

Airbus has issued the following inspection service bulletins:

- Airbus Service Bulletin A300–54–0073 (for Model A300 series airplanes), Revision 1, dated March 28, 1994;
- Airbus Service Bulletin A300–54–6014 (for Model A300–600 series airplanes), Revision 1, dated March 28, 1994; and
- Airbus Service Bulletin A310–54–2017 (for Model A310 series airplanes), Revision 1, dated March 28, 1994.

These inspection service bulletins describe procedures for repetitive internal eddy current inspections to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, and repair, if necessary. These service bulletins permit further flight with pylons that are cracked within certain limits. In such instances, the service bulletins recommend that, following repair of cracking within specified limits, repaired areas should be inspected repetitively using eddy current techniques to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 93–228–154(B), dated December 22, 1993, in order to assure the continued airworthiness of these airplanes in France.

Airbus also has issued the following modification service bulletins:

- Airbus Service Bulletin A300–54–0080 (for Model A300 series airplanes), Revision 1, dated January 16, 1995;
- Airbus Service Bulletin A300–54–6020 (for Model A300–600 series airplanes), dated October 15, 1993, as amended by Service Bulletin Change Notice O.A., dated February 22, 1994; and
- Airbus Service Bulletin A310–54–2023 (for Model A310 series airplanes), dated October 15, 1993.

These modification service bulletins describe procedures for modification of the lower spar between ribs 6 and 7. The modification involves installation of an outer doubler on the undamaged structure of the lower spars between ribs 6 and 7. For Model A300 and A300–600 series airplanes, accomplishment of the modification reduces the probability of cracking in the lower spar of the pylon and, thereby, allows an extension of the initial inspection threshold and repetitive interval for accomplishing the internal eddy current inspections. For Model A310 series airplanes, accomplishment of the modification eliminates the need for the internal eddy current inspections.

Proposed Requirements of the Rule

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive internal eddy current inspections to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, and repair, if necessary. The actions would be required to be accomplished in accordance with the inspection service bulletins described previously.

For Model A300 and A300–600 series airplanes, the proposed AD would provide for an optional modification, which, if accomplished, would allow an extension of the initial inspection threshold and repetitive interval for accomplishing the required inspections. For Model A310 series airplanes, the proposed AD also would provide for an optional terminating modification, which, if accomplished, would constitute terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the modification service bulletins described previously.

Differences Between the Proposed Rule and Relevant Service Information

Operators should note that this proposed rule would not permit further flight after detection of cracking of the lower spar axis of the pylons, as allowed by the inspection service bulletins. Instead, this proposed rule would require repair of the crack in accordance with the applicable service bulletin prior to further flight; or, if cracking is within certain limits, stop-drilling the crack in accordance with the Structural Repair Manual (SRM) as a temporary measure for a specified number of landings until the repair or modification is accomplished. (Stop-drilling the crack does not constitute a repair; rather, it is only an interim measure that would temporarily reduce the stress concentration effect of the crack tip before the repair or modification is accomplished to restore the structure to its ultimate load capability.) In addition, this proposed AD also provides for installation of an optional terminating modification in accordance with the applicable service bulletin prior to further flight.

The SRM for the affected airplanes identifies the pylon as ''primary structure.'' As defined in the SRM, primary structure is that structure which contributes significantly to carrying flight, ground, and pressurization loads. The SRM further classifies the main frame of the pylon as a ''restricted area,'' where repairs could affect the load carrying capability of the pylon for some flight and crash conditions. In light of this, the FAA finds that an adequate level of safety for the affected fleet requires that cracking of the lower spar axis of the pylons must be addressed immediately by repair or temporary measures, as specified previously. The FAA has determined that, in cases where certain known unsafe conditions exist, and where actions to detect and correct those unsafe conditions can be readily accomplished, those actions must be required.

Cost Impact

The FAA estimates that 99 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $47,520, or $480 per airplane, per inspection cycle.

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.

Should an operator of a Model A300 series airplane elect to accomplish the optional modification that would be provided by this AD action, it would take approximately 100 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $1,500 per airplane. Based on these figures, the cost impact of the optional modification for Model A300 series airplanes is estimated to be $7,500 per airplane.

Should an operator of a Model A300–600 or A310 series airplane elect to accomplish the optional modification that would be provided by this AD action, it would take approximately 110 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $1,500 per airplane. Based on these figures, the cost impact of the optional modification for Model A300–600 and A310 series airplanes is estimated to be $8,100 per airplane.

Regulatory Impact

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Airbus Industrie: Docket 95–NM–85–AD.

Applicability: Model A300, A300–600, and A310 series airplanes; as listed in Airbus Industrie Service Bulletins A300–54–0073, A300–54–6014, and A310–54–2017, all Revision 1, all dated March 28, 1994; 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 (k) 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 reduced structural integrity of the lower spar, accomplish the following:

(a) For Model A300 series airplanes equipped with General Electric CF6–50C engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 10,900 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 6,700 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the Structural Repair Manual (SRM). Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 17,900 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (a)(2) of this AD thereafter at intervals not to exceed 15,000 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(b) For Model A300 series airplanes equipped with General Electric CF6–50C engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 30,300 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 21,300 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(c) For Model A300 series airplanes equipped with Pratt & Whitney JT9D–59A engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 8,600 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 5,700 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 14,200 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (c)(2) of this AD thereafter at intervals not to exceed 12,800 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(d) For Model A300 series airplanes equipped with Pratt & Whitney JT9D–59A engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 24,000 landings since

installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 18,200 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(e) For Model A300–600 series airplanes equipped with General Electric CF6–80C2 engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 9,400 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 6,100 landings.

(2) If any crack is found that is less than or equal to 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 15,600 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (e)(2) of this AD thereafter at intervals not to exceed 13,600 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(f) For Model A300–600 series airplanes equipped with General Electric CF6–80C2 engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 26,400 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 19,400 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(g) For Model A300–600 series airplanes equipped with Pratt & Whitney JT9D–7R4 or PW 4000 engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 5,700 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 4,400 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 10,100 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (g)(2) of this AD thereafter at intervals not to exceed 10,000 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(h) For Model A300–600 series airplanes equipped with Pratt & Whitney JT9D–7R4 or PW 4000 engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 14,500 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 14,500 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(i) For Model A310 series airplanes equipped with General Electric CF6–80C2, or Pratt & Whitney JT9D–7R4, or Pratt & Whitney PW4000 engines: Prior to the accumulation of 36,700 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–2017, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 15,000 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 40,000 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (i)(2) of this AD thereafter at intervals not to exceed 33,000 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(j) For Model A310 series airplanes equipped with General Electric CF6–80C2, or Pratt & Whitney JT9D–7R4, or Pratt & Whitney PW4000 engines: Accomplishment of the modification specified in Airbus Industrie Service Bulletin A310–54–2023, dated October 15, 1993, constitutes terminating action for the inspections required by paragraph (i) of this AD.

(k) 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. 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.

(l) 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 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5223 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 95–NM–198–AD]

Airworthiness Directives; Airbus Model A320–111, –211, –212, and –231 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 Airbus Model A320–111, -211, -212, and -231 series airplanes. This proposal would require removing the existing forward pintle nut and cross bolt on the main landing gear (MLG), and installing a new nylon spacer and cross bolt and nut. This proposal is prompted by results of fatigue testing which revealed that the cross bolt and nut in the forward pintle pin of the MLG were damaged due to fatigue cracking. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in collapse of the MLG.

DATES: Comments must be received by April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–198–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–198–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–198–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that during fatigue tests on an Airbus Model A320 test article, the cross bolt and nut in the forward pintle pin of the main landing gear (MLG) were found to be damaged due to fatigue cracking. Such fatigue cracking, if not detected and corrected in a timely manner, could result in collapse of the MLG.

Airbus has issued Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994, which describes procedures for removing the existing forward pintle nut and cross bolt on the MLG, and installing a new nylon spacer and cross bolt and nut. The new nylon spacer will absorb deflections and reduce the loads on the cross bolt and the nut. Additionally, the cross bolt is longer than the existing cross bolt to accommodate the addition of the nylon spacer. (The Airbus service bulletin references Dowty Aerospace Service Bulletin 200–32–194, Revision 1, dated October 4, 1993, as an additional source of service information for accomplishment of these procedures.) The DGAC classified the service bulletin as mandatory and issued French airworthiness directive 94–057–052 (B), dated March 16, 1994, in order to assure the continued airworthiness of these airplanes in France.

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require removing the existing forward pintle nut and cross bolt on the MLG; and installing a new nylon spacer and cross bolt and nut. The actions would be required to be accomplished in accordance with the Airbus service bulletin described previously.

The FAA estimates that 90 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the parts manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $5,400, or $60 per airplane.

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.

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Airbus: Docket 95–NM–198–AD.

Applicability: Model A320–111, -211, -212, and -231 series airplanes, on which Airbus Modification 23573 (Airbus Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994), has not been installed; certificated in any category.

Note 1. This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 collapse of the main landing gear (MLG) during landing, due to failure of the forward pintle pin cross bolt, accomplish the following:

(a) Remove the existing forward pintle nut and cross bolt; and install a new nylon spacer and post-mod cross bolt and nut of the MLG, in accordance with Airbus Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of 20,000 total landings, or at the next main landing gear overhaul, whichever occurs first.

(2) Within 500 landings after the effective date of this AD.

Note 2: The Airbus service bulletin references Dowty Aerospace Service Bulletin 200–32–194, Revision 1, dated October 4, 1993, as an additional source of service information for accomplishment of these procedures.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on February 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5222 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 95–NM–150–AD]

Airworthiness Directives; Airbus Model A300–600 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 all Airbus Model A300–600 series airplanes. This proposal would require an eddy current inspection to detect cracks on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, and various follow-on actions. This proposal is prompted by reports of cracking in the radius of frame 40 adjacent to the tension bolts at the center/outer wing junction due to fatigue-related stress. The actions specified by the proposed AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the wings.

DATES: Comments must be received by April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–150–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

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–150–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–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 15, 1993, the FAA issued AD 93–01–24, Amendment 39–8478 (58 FR 6703, February 2, 1993), which is applicable to all Airbus Model A300 B2, B4–100, and B4–200 series airplanes. That AD requires supplemental structural inspections to detect fatigue cracking, and repair or replacement, if necessary; or the installation of specific modifications. That action was prompted by a structural reevaluation, which identified certain significant structural components to inspect for fatigue cracks as these airplanes approach and exceed the manufacturer's original fatigue design life goal. The requirements of that AD are intended to prevent reduced structural integrity of these airplanes.

Since the issuance of that AD, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A300–600 series airplanes. The DGAC advises that, during sampling inspections required by AD 93–01–24, cracking was found in the radius of frame 40 adjacent to the tension bolts at the center/outer wing junction. The cracking occurred on Model A300 B2 and B4 series airplanes that had accumulated between 15,000 and 24,000 total flight cycles. The cause of such cracking has been attributed to fatigue-related stress. Such fatigue-related cracking, if not corrected, could result in reduced structural integrity of the wings.

The subject area on certain Model A300–600 series airplanes is almost identical to that on the affected Model A300 B2 and B4 series airplanes. Therefore, those Model A300–600 series airplanes may be subject to the same unsafe condition revealed on the Model A300 B2 and B4 series airplanes.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–57–6062, dated February 14, 1995, which describes procedures for an eddy current inspection to detect cracks on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, and various follow-on actions. (These follow-on actions include applying a sealant, eddy current inspections, and blending of cracks.) This service bulletin permits further flight, under certain conditions, with forward fittings that are cracked within certain limits. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 95–063–177(B), dated April 12, 1995, in order to assure the continued airworthiness of these airplanes in France.

Explanation of the Proposed Rule

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require an eddy current inspection to detect cracks on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, and various follow-on actions. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Differences Between the Proposed Rule and Relevant Service Information

Operators should note that, unlike the procedures described in the referenced service bulletin, this proposed AD would not permit further flight with cracking detected in the forward fittings. The FAA has determined that, due to the safety implications and consequences associated with such cracking under certain conditions, the subject forward fittings that are found to be cracked must be repaired. In addition, if any crack is removed and the blend out is greater than 50 mm long and/or 2 mm deep, the forward fitting must be repaired. These repairs would be required to be accomplished in accordance with a method approved by the FAA.

In addition, the service bulletin specifies that inspection thresholds and intervals should be adjusted based on the average utilization rate of the airplane. However, the FAA has determined that, in some cases, such adjustments would not address the unsafe condition in a timely manner. Therefore, this proposed AD does not permit such adjustments. In developing the appropriate inspection thresholds and intervals for the proposed rule, the FAA considered not only the manufacturer's recommendation and the average utilization rate of the affected U.S. registered airplanes, but the safety implications involved with cracking in the radius of frame 40 adjacent to the tension bolts at the center/outer wing junction. In light of these factors, the FAA finds the compliance times specified in the proposed AD for initiating the required actions to be warranted, in that they represent an appropriate interval of time allowable for the affected airplanes to continue to operate without compromising safety.

Furthermore, the service bulletin specifies that operators need not count touch-and-go landings in determining the total number of landings between two consecutive inspections, even if those landings are less than five percent of the landings between inspection intervals. Since fatigue cracking that was found in the radius of frame 40 adjacent to the tension bolts at the center/outer wing is aggravated by landing, the FAA finds that all touch-and-go landings must be counted in determining the total number of landings between two consecutive inspections.

Cost Impact

The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 22 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $46,200, or $1,320 per airplane, per inspection cycle.

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.

Regulatory Impact

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Airbus Industrie: Docket 95–NM–150–AD.

Applicability: All Model A300–600 series airplanes, 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 (d) 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 fatigue-related cracking, which could result in reduced structural integrity of the wing, accomplish the following:

(a) Perform an eddy current inspection to detect cracks on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, in accordance with Airbus Service Bulletin A300–57–6062, dated February 14, 1995, at the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes that have accumulated 12,400 total landings or less as of the effective date of this AD: Inspect prior to the accumulation of 10,500 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated more than 12,400 total landings as of the effective date of this AD: Inspect within 750 landings after the effective date of this AD.

(b) If no crack is detected during the inspection required by paragraph (a) of this AD, prior to further flight, apply sealant, in accordance with Airbus Service Bulletin A300–57–6062, dated February 14, 1995. Repeat the eddy current inspection thereafter at intervals not to exceed 4,500 landings.

(c) If any crack is detected during the inspection required by paragraph (a) of this AD, prior to further flight, blend it out in accordance with Airbus Service Bulletin A300–57–6062, dated February 14, 1995. Prior to further flight after accomplishing the blend out, perform an eddy current inspection to verify that the crack has been removed, in accordance with the service bulletin.

(1) If any crack is removed and the blend out is equal to or less than 50 mm long and/or 2 mm deep, repeat the eddy current inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 950 landings.

(2) If any crack exists, or if any crack is removed and the blend out is more than 50 mm long and/or 2 mm deep, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) 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. 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.

(e) 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 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5221 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 71

[Airspace Docket No. 95–AGL–21]

Establishment of Class D Airspace; Minneapolis, Anoka, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace at Anoka County-Blaine Airport, Anoka, MN. Class D airspace is needed during the specific times that the Anoka County-Blaine Air Traffic Control Tower (ATCT) is in operation. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before April 25, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 95–AGL–21, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Peter H. Salmon, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AGL–21.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Anoka County-Blaine Airport, Anoka, MN. Class D airspace is needed during the specific times that the Anoka County-Blaine ATCT is in operation. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000 General

* * * * *

AGL MN D Minneapolis, Anoka, MN [New]

Minneapolis, Anoka County-Blaine Airport, MN

(Lat. 45°08′41.6″N, long. 93°12′39.8″W)

That airspace extending upward from the surface to and including 3400 feet MSL within a 3.9-mile radius of Anoka County-Blaine Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on January 25, 1996.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 96–5122 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 94P–0390 and 95P–0241]

Food Labeling: Nutrient Content Claims, General Principles; Health Claims, General Requirements and Other Specific Requirements for Individual Health Claims; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of December 21, 1995 (60 FR 66206). The document proposed to amend the food labeling regulations on nutrient content claims and health claims to provide additional flexibility in the use of these claims on food products. The document was published with some typographical errors. This document corrects those errors.

DATES: Written comments by March 20, 1996. The agency is proposing that any final rules that may issue based upon this proposal become effective on the date of publication.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12140 Parklawn Dr., rm. 1–23, Rockville, MD 20857, 301–443–1751.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

In FR Doc. 95–31008, appearing on page 66206 in the Federal Register of Thursday, December 21, 1995, the following corrections are made:

1. On page 66213, in the first column, in the second full paragraph, beginning in the third line, ''thiamin, niacin, or carbohydrates'' is corrected to read ''thiamin, niacin, or complex carbohydrates'', and beginning in the tenth line, ''thiamin, niacin, or carbohydrates'' is corrected to read ''thiamin or niacin''.

2. On page 66214, in the third column, in the second full paragraph, in the fifteenth line, ''of formation'' is corrected to read ''of information''.

Dated: February 27, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5214 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250, 251, and 256

RIN 1010–AB92

Revision of Requirements Governing Surety Bonds for Outer Continental Shelf Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends to May 6, 1996, the deadline for the submission of comments on the proposed revision of requirements governing surety bonds for Outer Continental Shelf (OCS) leases that were published December 8, 1995.

DATES: MMS will consider all comments we receive by May 6, 1996. We will begin reviewing comments at that time and may not fully consider comments we receive after May 6, 1996, in this rulemaking.

ADDRESSES: Written comments must be mailed or hand-carried to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4700; Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Engineering and Technology Division, Telephone (703) 787–1609.

SUPPLEMENTARY INFORMATION: The MMS has been asked to extend the deadline for respondents to submit comments on the proposed revisions of MMS's requirements governing surety bonds for OCS leases that were published December 8, 1995 (60 FR 63011). The request explains that more time is needed to allow respondents time to prepare detailed and comprehensive comments and recommendations on the complex factual and legal issues posed by MMS's proposal.

Dated: February 28, 1996.

Thomas M. Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 96–5106 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–MR–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–71–2–6062b; FRL–5427–5]

Approval and Promulgation of Implementation Plans; Kentucky: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the Commonwealth of Kentucky for the purpose of establishing a Stage II vapor recovery program in Louisville, Kentucky. 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 this proposed 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 April 5, 1996.

ADDRESSES: Written comments on this action should be addressed to Alan Powell at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

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

Kentucky Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 316 St. Clair Mall, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Alan Powell, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4209. Reference file KY–71–2.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: January 10, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

[FR Doc. 96–5083 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300414; FRL–5347–7]

RIN 2070–AB18

Triphenyltin Hydroxide; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to revoke tolerances for residues of Triphenyltin Hydroxide in or on carrots, peanuts and peanut hulls. All domestic registrations for use on these crops have been cancelled, therefore there is no longer a need to maintain these tolerances.

DATES: Written comments should be submitted to EPA by May 6, 1996.

ADDRESSES: By mail, submit written comments 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 comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, 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 should not be submitted through e-mail. Information marked as CBI 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 address given above, from 8 a.m. to 4:30 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–300414]. 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: Jude Andreasen, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone: (703) 308-8016; e-mail:andreasen.jude-epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Authorization

The Federal Food, Drug, and Cosmetic Act (FFDCA, 21 U.S.C. 301 et seq.) authorizes the establishment of tolerances (maximum legal residue levels) and exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities pursuant to section 408 [21 U.S.C. 346(a)]. Without such tolerances or exemptions, a food containing pesticide residues is considered ''adulterated'' under section 402 of the FFDCA, and hence may not legally be moved in interstate commerce [21 U.S.C. 342]. To establish a tolerance or an exemption under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would ''protect the public health'' [21 U.S.C. 346a(b)]. For a pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.).

In 1988, Congress amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.) and required EPA to review and reassess the potential hazards arising from currently registered uses of pesticides registered prior to November 1, 1984. As part of this process, the Agency must determine whether a pesticide is eligible for reregistration or whether any subsequent actions are required to fully attain reregistration status. EPA has chosen to include in the reregistration process a reassessment of existing tolerances or exemptions from the need for a tolerance. Through this reassessment process, based on more recent data, EPA can determine whether a tolerance must be amended, revoked, or established, or whether an exemption from the requirement of one or more tolerances must be amended or is necessary.The procedure for establishing, amending, or revoking tolerances or exemptions from the requirement of tolerances is set forth in 40 CFR parts 177 through 180. The Administrator or EPA, or any person by petition, may initiate an action proposing to establish, amend, revoke, or exempt a tolerance for a pesticide registered for food uses. Each petition or request for a new tolerance, an amendment to an existing tolerance, or a new exemption from the requirement of a tolerance must be accompanied by a fee. Current Agency policy on tolerance actions identified during the reregistration process is to waive the payment of fees if the tolerance action concerns revision or revocation of an established tolerance, or if the proposed exemption from the requirement of a tolerance requires the concurrent revocation of an approved tolerance. Comments submitted in response to the Agency's published proposals are reviewed; the Agency then publishes its final determination regarding the specific tolerance actions.

II. Chemical—Specific Information and Proposed Actions On Triphenyltin hydroxide: Revocation of Tolerances

1. *Regulatory background.* Triphenyltin hydroxide (TPTH) was first registered under FIFRA in 1971; a Registration Standard was issued in September, 1984. The Standard established the restricted use classification, announced EPA's intent to initiate a Special Review based on developmental toxicity, imposed label warnings, established a 24-hour reentry period, and required data to fill gaps in product chemistry, residue chemistry, environmental fate, ecological effects and toxicology.

Data Call-In Notices were issued in 1986, 1988, 1990 and 1993. Worker exposure studies and reentry studies for pecan harvesters were submitted in early 1995 and are under review. The registrants (Griffin Corporation, Elf Atochem and Hoechst, now Agrevo) formed a Task Force and agreed that carrots and peanuts would not be supported uses, but that data for use on sugar beets, potatoes and pecans would be generated jointly by the Task Force.

A notice announcing receipt of a request for a voluntary cancellation of the use of TPTH on carrots was published in the Federal Register on March 6, 1991 (56 FR 9358). No comments were received in connection with this notice and the registration was subsequently canceled 60 days later. Earlier, the technical registrant, Griffin Corporation, submitted an application and proposed label amendments which deleted the use of TPTH on peanuts. The Agency approved this action on June 13, 1988.

2. *Current proposal.* Revocation of tolerances under 40 CFR 180.236 are proposed. Registrants are not supporting the use of TPTH on peanuts or carrots. Therefore, the Agency is proposing to revoke the tolerances for peanuts, peanut hulls and carrots.

III. Public Comment Procedures

EPA invites interested parties to submit written comments, information, or data in response to this proposed rule. Comments must be submitted by May 6, 1996. Comments must bear a notation indicating the docket number. Three copies of the comments should be submitted to either location listed under the ''ADDRESSES'' section above.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as ''Confidential Business Information'' (CBI). EPA will not disclose information so marked, except in accordance with procedures set forth in 40 CFR part 2. A second copy of such comments, with the CBI deleted, must also be submitted for inclusion in the public record. EPA may publicly disclose without prior notice information not marked confidential.

Any person who has registered or submitted an application for registration of a pesticide, under FIFRA, as

amended, that contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

EPA has established a record for this proposed rule under docket number [OPP–300414] (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 4:00 p.m., Monday through Friday, except 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 ı2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket-epamail.epa.gov

The official record for this proposed rule, 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 proposed rule record which will also include all comments submitted directly in writing. The official proposed rule record is the paper record maintained at the ''ADDRESSES'' listed at the beginning of this document.

IV. References

1. U.S. Environmental Protection Agency. 56 FR 9358, TPTH: Deletion of Uses and Directions for Use on Carrots, March 6, 1991.

2. Application and revised label from Griffin Corporation to EPA, October 16, 1987, deleting the use on peanuts for EPA registration number 1812-244. Accepted application, June 13, 1988.

V. Regulatory Assessment Requirements

To satisfy requirements for analysis specified by Executive Order 12866, the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Unfunded Mandates Reform Act, EPA has considered the impacts of this proposal.

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a ''significant regulatory action'' as an action that is likely to result in 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 tribal governments or communities (also referred to 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 entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; 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 a ''significant regulatory action,'' because it does not meet any of the regulatory-significance criteria listed above. The use sites for which tolerance revocation is proposed have been cancelled for some time. Revoking the tolerances is not expected to have any significant impact.

B. Regulatory Flexibility Act

EPA has reviewed this proposed rule under the Regulatory Flexibility Act of 1980 [Pub. L. 96–354; 94 Stat. 1164, 5 U.S.C. 601*et seq.*], and has determined that it will not have a significant economic impact on any small businesses, governments, or organizations. The proposed rule is not expected to have any significant impact on entities of any size. Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

D. Unfunded Mandates

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, for State, local, or tribal governments or the private sector, because it would not impose enforceable duties on them.

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 22, 1996.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

Authority: 15 U.S.C. 346a and 371.

2. Section 180.236 is revised to read as follows:

§ 180.236 Triphenyltin hydroxide; tolerances for residues.

Tolerances are established for residues of the fungicide triphenyltin hydroxide in or on raw agricultural commodities as follows:

0.1 part per million in or on sugar beet roots.

0.05 part per million in or on pecans and potatoes.

0.05 part per million in the kidney and liver of cattle, goats, hogs, horses and sheep.

[FR Doc. 96–5242 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

---

40 CFR Part 180

[OPP–300416; FRL–5349–7]

RIN 2070–AC18

Pesticide Tolerance for Prosulfuron

AGENCY: Environmental Protection Aqency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to extend the tolerances for residues of the herbicide prosulfuron, 1-(4-methoxy-6-methyl-triazin 2-yl)-3-[2-(3,3,3-trifluoropropyl)-phenylsulfonyl]-urea in or on the raw agricultural commodities corn (forage, fodder, grain and fresh [including sweet kernels plus cobs with husks removed]) at 0.01 part per million (ppm), milk at 0.01 ppm, and fat, kidney, liver, meat by-products, of cattle, goats, hogs, horses, and sheep at at 0.05 ppm. The Agency has not completed the regulatory assessment of our science findings; therefore, the Agency is proposing to extend these tolerances until December 1999.

DATES: Comments must be sumitted by April 5, 1996.

ADDRESSES: By mail, submit written comments, identified by the docket number [OPP–300416] 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 comments to Rm. 1132, CM #2, 1921 Jefferson Davis Highway., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking part or all 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 address given above, from 8:00 a.m. to 4:30 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–300416]. No Confidential Business Information (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.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–305–6800, e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the Federal Register of (60 FR 24788, May 10, 1995) which established tolerances for residues of the herbicide prosulfuron, 1-(4-methoxy-6-methyl-triazin-2-yl)-3-[2-(3,3,3-trifluoropropyl)-phenylsulfonyl]-urea in or on the raw agricultural commodities corn (forage, fodder, grain, and fresh [including sweet kernels plus cobs with husks removed]) at 0.01 ppm, milk at 0.01 ppm, and meat, fat and meat by-products, of cattle, goats, hogs, horses, and sheep at at 0.05 ppm, with an expiration date of December 31, 1995 [PP 4F4336/R2133]. These tolerances with an expiration date were required by EPA to allow the petitioner, Ciba-Geigy Corp. to submit additional data concerning the method trial and corn metabolism and ruminant metabolism data. The petitioner has submitted the method and the method has been validated by an independent laboratory. Additional time is being required to complete review of this method trial and allow additional time to complete and submit the required metabolism data.

Based on the information cited above and in the document establishing the time-limiting tolerance for prosulfuron (60 FR 24788), the Agency has determined that when used in accordance with good agricultural practice, this ingredient is useful and the tolerances will protect the public health. Therefore, EPA is proposing to establish the tolerances as described below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the active ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number [OPP–300416]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8:00 a.m. to 4:30 p.m., Monday throuqh Friday, except leqal holidays.

A record has been established for this rulemaking under docket number [OPP–300416] (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.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 112866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or food additive regulations 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 21, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be 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 revising § 180.481 to read as follows:

§ 180.481 Prosulfuron; tolerances for residues.

Tolerances that expire on December 31, 1999 are being extended for residues of the herbicide prosulfuron 1-(4-methoxy-6-methyl-triazin-2-yl)-3-[2-(3,3,3-trifluoro propyl)-phenylsulfonyl]-urea in or on the following raw aqricultural commodities:

Commodities	Parts per million
Corn, forage	0.01
Corn, fodder	0.01
Corn, grain and fresh (including sweet kernels plus cobs with husks removed])	0.01
Milk	0.01
Meat, fat, kidney, liver & meat by-products, of cattle, goats, hogs, horses, and sheep of cattle, goats, sheep	0.05

[FR Doc. 96–5241 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[ET Docket No. 96-20, RM-8638; FCC 96-55]

Fixed-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Notice of Proposed Rule Making* (*NPRM*), the Commission proposes to allocate the 13.75–14.0 GHz band to the Fixed-Satellite Service (''FSS'') on a co-primary basis for Earth-to-space (''uplink'') transmissions. Adoption of this proposal would accommodate growing demand for FSS services and would provide satellite operators with increased flexibility in the design of their systems.

DATES: Comments must be submitted on or before April 1, 1996 and reply comments must be submitted on or before April 16, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418–2450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM* in ET Docket No. 96-20, adopted on February 13, 1996, and released on February 23, 1996. The complete *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington D.C. 20037.

Summary of NPRM

1. The Commission proposes to amend Part 2 of its rules to allocate the 13.75–14.0 GHz frequency band to the FSS on a co-primary basis for uplink transmissions and to make conforming revisions to the associated service rules in Part 25. The FSS is a radiocommunication service between earth stations at a specified fixed point or any fixed point within specified areas and one or more satellites. In some cases this service includes satellite-to-satellite links, which may also be operated in the inter-satellite service. The FSS may also include feeder links for other space radiocommunication services. In addition, the Commission proposes to adopt domestically the international footnotes that specify the spectrum sharing criteria between incumbent services and the FSS as contained in the United States Proposals for the 1995 World Radiocommunication Conference (''WRC–95''). The Commission notes that WRC–95 has recently concluded and that it adopted most of the United States' proposals. The Commission is reviewing the decisions made at WRC–95 and will consider the international footnotes adopted for the 13.75–14.0 GHz band later in this proceeding. The Commission also proposes to adopt a United States footnote that would require that all FSS applications requesting the use of any frequency in the 13.75–13.8 GHz band segment be coordinated in order to minimize harmful interference to the Federal Government's Tracking and Data Relay Satellite System. This action would be consistent with the international allocation for this band made at the 1992 World Administrative Radio Conference, and would provide incumbent operations in this band with adequate interference protection from FSS uplinks.

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 25

Radio, Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–5186 Filed 3–5–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 87

[WT Docket No. 96–1, FCC 96–2]

Automatic Operation of Aeronautical Advisory Stations (Unicoms)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a *Notice of Proposed Rule Making (NPRM)* which seeks to permit unattended, automatic operation of aeronautical advisory stations (unicoms) to enhance service to the general aviation community. This action stems from a Petition for Rule Making filed by Potomac Aviation Technology Corporation (PATC). The proposed rules would facilitate more efficient use of previously-allocated radio spectrum, make unicom services more widely available within the general aviation community, and increase safety in air navigation.

DATES: Comments must be filed on or before March 29, 1996, and reply comments must be filed on or before April 29, 1996. Written comments by the public on the proposed and/or modified information collections are due on or before March 29, 1996, and reply comments on or before April 29, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 6, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Roger Noel of the Wireless Telecommunications Bureau at (202) 418–0680. For additional information concerning the information collections contained in this *NPRM* contact Dorothy

Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM,* WT Docket No. 96–1, FCC 96–2, adopted January 11, 1996, and released January 29, 1996. The full text of this *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, telephone (202) 857–3800. This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Summary of Notice of Proposed Rule Making

1. The unicom service was established in the 1950s to provide weather and runway advisories, radio checks, and other services necessary to the safe and expeditious operation of general aviation aircraft, and is a primary source of this type of information at many of the nation's 15,000 general aviation airfields. Many smaller airfields, however, cannot afford personnel to operate unicom stations full-time, nor can they afford other already-available but more complex automated advisory systems such as automatic weather observation stations (AWOS) or automatic terminal information stations (ATIS). The instant proceeding was initiated by a petition for rulemaking filed by Potomac Aviation Technology Corporation (PATC). PATC has been operating several automatic unicom stations under a developmental license since February, 1994.

2. The Commission proposes to expand the unicom service by permitting unicom stations to transmit in automatic mode without a live operator at the control point. Unicoms operating in automatic mode will be subject to all of the rules applicable to non-automatic unicoms. In order to reduce the potential for increased congestion on the unicom frequencies, however, unicoms in automatic mode must be configured to imitate basic congestion-reducing techniques employed by live operators.

3. Specifically, unicoms in automatic mode must transmit only in response to pilot interrogation via brief keyed RF signals from aircraft stations (generated by briefly depressing the ''push-to-talk'' button on an aircraft's microphone), monitor the unicom frequency before transmitting, and transmit only when the frequency has been silent for at least three seconds.

4. Under the proposed rules, only one unicom station will be permitted to operate in automatic mode at any airport. There will be no special licensing requirements for automated unicom operation beyond those applicable to a non-automatic unicom station; however, if an automatic unicom is to operate at an airport where more than one unicom station has been authorized, all of the unicom operators at that airport must come to an arrangement concerning who will control the automatic operations or how control will be shared. The Commission seeks specific comments concerning the proposed rule amendments set forth at the end of this document.

5. This *NPRM* is issued under the authority of sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

Initial Regulatory Flexibility Analysis

Reason for Action

The Commission proposes to permit Aeronautical Advisory Stations (Unicoms) to operate in automatic mode.

Objectives

We seek to increase unicom service availability without allocating new spectrum to the service or causing an increase in congestion on the unicom frequencies.

Legal Basis

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act, 47 U.S.C. §§ 154(i) and 303(r).

Reporting, Recordkeeping and Other Compliance Requirements

Our proposed addition of 47 CFR § 87.219 would require all unicom licensees at airports having more than one unicom to jointly sign a letter of agreement, prior to the operation of a unicom in automatic mode at such an airport, stating the name(s) of the licensee(s) who will control the automatic unicom and, if applicable, how control of the automatic unicom will be divided.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules

None; however, FAA Advisory Circular 150/5340, ''Air-to-Ground Radio Control of Airport Lighting Systems'' addresses the method of activating automated systems contained in our proposed amendments and permitted under our current rules. Any proposed changes to 47 CFR. § 87.187(y) should be fully compatible with the FAA Advisory Circular.

Description, Potential Impact, and Small Entities Involved

Permitting Aeronautical Advisory Stations (Unicoms) to operate in automatic mode will make efficient use of previously-allocated spectral resources, will make unicom services more widely available within the general aviation community, will likely create a small number of manufacturing jobs, and will benefit pilots who rely on unicom information.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

None.

Paperwork Reduction Act

This *NPRM* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB comments are due 60 days from date of publication of this *NPRM* in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: N/A.

Title: Proposed 87.219 Automatic operations (NPRM in WT Dck No 96–1).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 50.

Estimated Time Per Response: 0.7 hour.

Total Annual Annualized Cost: $5,500.

Total Annual Burden: 35.

Needs and Uses: This rule requires that if airports have control towers or FAA flight service stations, and more than one licensee and want to have an automated aeronautical advisory station (unicom), they must write an agreement outlining who will be responsible for the unicom's operation, sign the agreement and keep a copy of the agreement with each licensee's station authorization. The information will be used by compliance personnel for enforcement purposes and by licensees to clarify responsibility in operating unicom.

List of Subjects in 47 CFR Part 87

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Chapter I of Title 47 of the Code of Federal Regulations, Part 87, is proposed to be amended as follows:

PART 87—AVIATION SERVICES

The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

Section 87.5 is amended by revising the definition of ''automatic weather observation station'' to read as follows:

§ 87.5 Definitions.

* * * * *

Automatic weather observation station (AWOS) or automatic surface observation station (ASOS). A land station located at an airport and used to automatically transmit weather information to aircraft.

* * * * *

3. Section 87.187 is amended by revising paragraph (y) introductory text and the first sentence in paragraph (y)(4) to read as follows:

§ 87.187 Frequencies.

* * * * *

(y) Brief keyed RF signals (keying the transmitter by momentarily depressing the microphone ''push-to-talk'' button) may be transmitted from aircraft for the control of automated unicoms on the unicom frequencies listed in paragraph (y)(3) of this section, or for the control of airport lights on the following frequencies:

* * * * *

(4) Aviation support station frequencies listed in § 87.323(b): * * *

* * * * *

4. A new Section 87.219 is added to Subpart G to read as follows:

§ 87.219 Automatic operations.

(a) A station operator need not be present when an automated unicom is in operation.

(b) In addition to the requirements applicable to non-automated unicom operations, unicoms operating in an automated mode must:

(1) Monitor the unicom frequency prior to transmission, and transmit only when no detectable signals are received for at least three seconds;

(2) Transmit only in response to brief keyed RF signals from aircraft stations as specified in § 87.187(y);

(3) Automatically shut down after three minutes of continuous transmission.

(c) Automated advisory transmissions must be as brief as possible, and must include the time and date of the advisory message's last update in each transmission.

(d) Only one automated unicom may be operated at an airport. Prior to the operation of an automated unicom at an airport with more than one unicom licensee, all of the licensees at that airport must sign a letter of agreement stating which licensee(s) control the automated unicom operations, and, if control is to be shared among several operators, how that control will be divided or scheduled. The original or a copy of the letter of agreement must be kept with each licensees' station records. Within 90 days of the date upon which a new unicom operator is licensed at an airport where more than one unicom is authorized, and an automated unicom is being operated, an amended letter of agreement that includes the new licensee's signature must be signed or automated unicom operations must cease.

5. Section 87.419 is revised to read as follows:

§ 87.419 Supplemental eligibility.

Only one control tower or RCO will be licensed at an airport.

6. Subpart S is amended by revising the heading to read as follows:

Subpart S—Automatic Weather Stations (AWOS/ASOS)

7. Section 87.525 is revised to read as follows:

§ 87.525 Scope of service.

Automatic weather observation stations (AWOS) and automatic surface observation stations (ASOS) must provide up-to-date weather information including the time of the latest weather sequence, altimeter setting, wind speed and direction, dew point, temperature, visibility and other pertinent data needed at airports having neither a full-time control tower nor a full-time FAA Flight Service Station. When a licensee has entered into an agreement with the FAA, an AWOS or an ASOS may also operate as an automatic terminal information station (ATIS) during the control tower's operating hours.

8. Section 87.527 is amended by revising the first sentence of paragraph (b) and paragraph (c) to read as follows:

§ 87.527 Supplemental eligibility.

* * * * *

(b) Eligibility for an AWOS, an ASOS, or an ATIS is limited to the owner or operator of an airport or to a person who has entered into a written agreement with the owner or operator for exclusive rights to operate and maintain the station. Where applicable a copy of the agreement between the applicant and owner or operator of the airport must be submitted with an application. * * *

(c) Only one AWOS, ASOS, or ATIS will be licensed at an airport.

9. Section 87.529 is amended by revising the fourth and fifth sentences to read as follows:

§ 87.529 Frequencies.

* * * Normally, frequencies available for air traffic control operations set forth in subpart E will be assigned to an AWOS, ASOS, or to an ATIS. When a licensee has entered into an agreement with the FAA to operate the same station as both an AWOS and as an ATIS, or as an ASOS and an ATIS, the same frequency will be used in both modes of operation.

[FR Doc. 96–5185 Filed 3–5–96; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 61, No. 45
Wednesday, March 6, 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

Food and Consumer Service

Information Collection Requirements Submitted for Public Comment and Recommendations; Correction and Extension of Comment Period

In accordance with the Paperwork Reduction Act of 1995, the Food and Consumer Service is correcting language regarding submission of comments in a previously published notice which sought public comment on information collection requests. In addition, the comment period on this Federal Register notice is being extended to allow further public comment based on the corrected language.

Correction

FR Doc. 96–3032, published on February 12, 1996 at 61 FR 5373, column 1 is corrected by adding a new paragraph between the first and second paragraph of the Addresses section to read as follows:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Extension of Comment Period

The comment period for this notice is being extended for ten days to allow additional comments based on the corrected language above. Comments must be received by April 26, 1996.

Comments should be sent to Rose McClyde, Accounting Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 415, Alexandria, VA 22032.

Dated: February 29, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–5251 Filed 3–5–96; 8:45 am]

BILLING CODE 3410–30–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: March 12, 1996; 9:00 a.m.

PLACE: Cohen Building, 330 Independence Avenue, S.W., Room 3709, Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Barbara Floyd at (202) 401–3736.

Dated: March 4, 1996.

David W. Burke,

Chairman.

[FR Doc. 96–5423 Filed 3–4–96; 2:07 pm]

BILLING CODE 6155–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arizona 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 Arizona Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:00 p.m. on March 22, 1996, at the Wyndham Garden Hotel, 427 North 44th Street, Phoenix, Arizona 85008. The purpose of the meeting is to discuss plans for release of a report and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Manuel Peña, 602–542–4171, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). 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 28, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–5146 Filed 3–5–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Wyoming 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 Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on March 30, 1996, at the BW Hitching Post Inn, 1700 W. Lincolnway, Cheyenne, Wyoming 82001. The purpose of this meeting is to brief the Committee on Commission and regional activities, discuss current civil rights issues in the State, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oralia G. Mercado, 307–472–2105, or John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). 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 28, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–5147 Filed 3–5–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13.

Agency: National Oceanic and Atmospheric Administration.

Title: Coastal Information Management Customer Survey.

Agency Number: None.

OMB Number: None.

Type of Request: New Collection.

Burden: 198 hours.

Number of Respondents: 600.

Avg. Hours Per Response: 20 minutes.

Needs and Uses: The National Oceanic and Atmospheric Administration's Coastal Service Center bridges the gap between scientists and managers in the coastal zone management community. The goal is to provide marine ecosystem and coastal watershed data to coastal resource managers. This survey request is for a customer survey to identify the services and products users want and expect, as well as to determine their satisfaction with existing services. The information will be used to make quality improvements to the products and services offered.

Affected Public: Federal, state, local or tribal governments.

Frequency: One-time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Adele Morris, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC's Acting Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information should be sent to Adele Morris, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: February 29, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–5178 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–12–P

Bureau of the Census

1996 Test Census—Special Place Facility Questionnaire DT–351

ACTION: Proposed Agency Information Collection Activity; 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Charles Moore, Bureau of the Census, Room 1769 #3, Washington, DC 20230, (301) 457–2050.

SUPPLEMENTARY INFORMATION:

I. Abstract

Planning is currently underway for the 1996 Test Census which is an integral part of the overall planning process for the Year 2000 Decennial Census. The Census Bureau must provide everyone in our test sites the opportunity to be counted including persons living at group quarters (GQs) student dorms, shelters and housing units (HUs) at and/or associated with special places (SPs). One of the major requirements for enumeration of persons at SP facilities is to identify the GQs and any associated HUs at each SP.

We will phone each SP in the 1996 Test Census and conduct interviews to identify and collect updated information about the GQs and HUs at each SP using the DT–351 Special Place Facility Questionnaire.

II. Method of Collection

Telephone interviews will be conducted using a paper questionnaire. We plan to conduct this operation via Computer Assisted Telephone Interviewing (CATI) for the year 2000 census. However, resources did not allow us to implement this approach in the 1996 Test Census. Form modifications should reduce the amount of time needed to conduct the interview as well as eliminate other problems caused by personal visit interviews.

III. Data

OMB Number: Not available.

Form Number: DT–351.

Type of review: Regular Submission.

Affected Public: Individuals, Businesses or other for-profit organizations, non-profit institutions and small businesses or organizations.

Estimated number of Respondents: 40 SPs in the 1995 Test Census sites.

Estimated Time Per Response: Each interview should take about 15 minutes (0.250 hours).

Estimated Total Annual Burden Hours: 10 hours.

Estimated Total Annual Cost: All costs for the Special Place Facility Questionnaire Operation ($700) are covered by funding for the 1996 Test Census. There is no cost to respondents for providing information on this operation, except for a few minutes of their time.

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 the 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 and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 29, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–5145 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–07–P

Bureau of Export Administration

One-Time Report for Foreign Software or Technology Eligible for De Minimis Exclusion

ACTION: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW., Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, U.S. Dept. of Commerce, 14th and Constitution Avenue., NW., room 6877, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 734.4 exempts from the Export Administration Regulations reexports of foreign technology commingled with or drawn from controlled U.S. origin technology valued at 10% or less of the total value of the foreign technology. Any company seeking exemption from export controls on foreign software and technology commingled with U.S. software or technology must submit a one-time report to BXA prior to reliance upon this *de minimis* exclusion.

II. Method of Collection

Exporters intending to rely on the *de minimis* exclusion for foreign software and technology commingled with U.S. software and technology must file a one-time written report for the foreign software or technology.

III. Data

OMB Number: 0694–0101.

Form Number: None.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time Per Response: 25 hours.

Estimated Total Annual Burden Hours: 250.

Estimated Total Annual Cost: $5,000 for preparation of report. There are no equipment or maintenance costs associated with this collection.

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 the 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 and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: February 29, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–5179 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–DT–P

Miscellaneous Activities

ACTION: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, U.S. Dept. of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

On September 30, 1993, the Secretary of Commerce submitted to the Congress a report of the Trade Promotion Coordinating Committee, entitled Toward a National Export Strategy. The report included the goal to ''Undertake a comprehensive review of the Export Administration Regulations to simplify, clarify, and make the regulations more user-friendly''. To carry out this recommendation, BXA has rewritten the entire EAR. During the course of this process, many activities imposed on the public were changed to reduce the burden, however the methods varied. Some were merely eliminated; others had old activities replaced with newer, simpler activities, and still others had new activities added to permit participation in programs where prohibitions once existed. Therefore, to the extent activities have been added or changed but not deleted, this collection represents the authority to collect, on rare occasions, certain information from the public. This assembly of information collection activities is comprised of three activities. Two of these—''Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export'', and ''Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic Materials; Public Hearings'' are statutory in nature and—though they never have been applied—must remain a part of the EAR. The third—The Commerce Control List—became necessary as the rewrite of the Export Administration Regulations sought to harmonize the U.S. ECCN system with the European system for consistency and future simplicity. For the purpose of clarity, this abstract will refer to these three activities as follows:

USAG will refer to Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export activities;

Petitions will refer to Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic Materials; Public Hearings activities; and

CCL will refer to Commerce Control List activities that are associated with export license applications.

II. Method of Collection

For USAG, the method is a written application for the exemption from Short Supply Limitations on Export Activities.

For Petitions, the method is a written petition requesting the monitoring of exports or the imposition of export controls, or both, with respect to certain materials.

For CCL, the method is by electronic or paper submissions related to export license applications.

III. Data

OMB Number: 0694–0102.

Form Number: None.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 2.

Estimated Time Per Response:

USAG: 5 hours per response.

Petition: 5 hours per response.

CCL: n/a—time is part of license application requirements.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost: $200.

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 the 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 and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: February 29, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–5180 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–DT–P

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Antidumping Duty Administrative Review; Time Limits

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

ACTION: Notice of extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the preliminary and final results of the review of polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea. The review covers four manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1994 through May 31, 1995.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT:

Michael J. Heaney 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) 482–4475 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

Because it is not practicable to complete this review within the time limits mandated by the URAA (245 days from the last anniversary month for preliminary determinations, 120 additional days for final determinations), pursuant to Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended, the Department is extending the time limits for completion of the preliminary results until June 30, 1996. We will issue our final results for this review by October 31, 1996.

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

Dated: February 22, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 96–5144 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–504]

Notice of Preliminary Results of Antidumping Duty Administrative Review; Porcelain-on-Steel Cookware From Mexico

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

SUMMARY: In response to a request by petitioner, the Department of Commerce is conducting an administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico. The review covers shipments of this merchandise to the United States during the period December 1, 1991 through November 30, 1992. The review indicates the existence of dumping margins during the review period. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Dolores Peck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone, (202) 482–4929.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1992, the Department of Commerce (the Department) published in the Federal Register a notice of ''Opportunity to Request an Administrative Review'' of the Antidumping Duty Order on Porcelain-on-Steel Cookware from Mexico (57 FR 57419). In accordance with 19 C.F.R. 353.22(a)(2), on December 16, 1992, General Housewares Corporation requested an administrative review of the antidumping order covering the period December 1, 1991, through November 30, 1992. We initiated the administrative review on February 23, 1993 (58 FR 11026), and are conducting it in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are

enameled or glazed with vitreous glasses. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) item number 7323.94.00. Kitchenware currently entering under HTS item number 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

The review covers two manufacturers/exporters, Acero Porcelanizado, S.A. de C.V. (APSA) and Cinsa, S.A. de C.V. (CINSA) of Mexican porcelain-on-steel cookware. The period of review (POR) is December 1, 1991 to November 30, 1992.

Applicable Statute and Regulations

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.

Product Comparisons

In accordance with the Department's standard methodology, we first compared identical merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of product type, quality, color, and number of enamel coats for CINSA and product type and quality for APSA.

CINSA argued that beginning in the fifth review period (1990–91), its home market costs and prices began to differentiate between items having different colors and enamel coats. We analyzed the information on the record in the sixth review (1991–92) and determined that appreciable differences in costs may result from different coats/colors for a product otherwise the same which is sold in the same period of time. We also noted that CINSA's home market pricing appears to differentiate between items having different colors and enamel coats, as argued by respondent. Accordingly, in addition to the product type and quality criteria, we have also used color and coat as matching criteria for CINSA.

APSA argues that color and coat should not be used in its product comparisons since the difference in its cost of producing cookware of different colors and coats is insignificant in relation to the total cost of production (COP). Moreover, APSA argued that the Department had matched only by product and quality in past reviews. As a result of our analysis of the information on the record, we concluded that there is no evidence indicating that the previous matching criteria are inappropriate for purposes of this review for this company. Accordingly, for APSA, we have compared products using only the product type and quality criteria, as was done in past reviews. (*See* Concurrence Memorandum dated September 13, 1995, for further discussion of this issue).

For those U.S. sales for which we found no contemporaneous sales of comparable merchandise sold in the home market and for which there was no constructed value (CV) data on the record, we used best information available (BIA). (See United States Price section of this notice).

United States Price

A. APSA

We based United States price (USP) on both exporter's sales price (ESP) and purchase price (PP), in accordance with section 772 of the Act, because the subject merchandise was sold both before and after importation into the United States. We based ESP and PP on the packed, ex-factory price to unrelated purchasers in the United States.

For both PP and ESP sales we made deductions from USP, where appropriate, for foreign and U.S. inland freight and insurance, Mexican and U.S. brokerage and U.S. import duties and user fees, in accordance with section 772(d)(2) of the Act. We also made deductions for discounts and rebates.

We made further deductions from ESP, where applicable, for commissions, credit expenses and indirect selling expenses, pursuant to section 772(e)(1) and (2) of the Act.

For three U.S. products, we found no identical home market products sold in contemporaneous periods, and APSA did not provide an adjustment for differences in merchandise or constructed value information, as we had repeatedly requested. Therefore, we used BIA for these sales pursuant to Section 776(C) of the Act. As partial BIA, we used the weighted-average of 8.75 percent from *Porcelain-On-Steel Cookware From Mexico; Final Results of Antidumping Duty Administrative Review (3rd Administrative Review),* 58 FR 32095 (June 8, 1993),because it is the highest rate ever determined for APSA. This is consistent with the Department's general application of partial BIA (*see, e.g., Final Results of Antidumping Duty Adminisrative Reviews and Revocation in Part of an Antidumping Duty Order; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.,*(AFBs), 60 FR 10900, 10907 (February 28, 1995)).

B. CINSA

We based USP on PP, in accordance with section 772 of the Act, because the subject merchandise was sold before importation into the United States. We based PP on the packed, ex-factory price to unrelated purchasers in the United States.

We made deductions from USP, where appropriate, for foreign and U.S. inland freight and insurance, Mexican and U.S. brokerage and U.S. import duties, in accordance with section 772(d)(2) of the Act.

We added to USP the amount of import duties which have been rebated, or which not have been collected, by reason of the exportation of the subject merchandise to the United States.

C. CINSA and APSA

For both CINSA and APSA we made an adjustment to USP for the value-added tax (VAT) paid on the comparison sales in Mexico. 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 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 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 United States 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.

Also, for both APSA and CINSA, the Department verified in the original investigation and in previous reviews that both companies incur the same packing expenses for sales of the subject merchandise in the United States and in Mexico. Therefore, as in previous reviews, no adjustment was made for packing.

Foreign Market Value

A. APSA

In calculating foreign market value (FMV), the Department used home market price, as defined in section 773 of the Act. Home market price was based on the packed, ex-factory price to certain related and unrelated purchasers in the home market. In our margin calculations, we used sales to related parties which we found were at arm's length. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 60 FR 44012 (August 24, 1995).

We made deductions from the home market price for discounts and rebates. For comparison to PP sales, pursuant to section 773(a)(4)(B) and 19 C.F.R. 353.56(a)(2), we made a circumstance-of-sale (COS) adjustment, where appropriate, for differences in credit expenses. For comparison to ESP sales, we also deducted credit expenses from FMV.

We adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2)(1994).

Regarding indirect selling expenses, APSA calculated inventory carrying costs based on sales price. We recalculated these costs based on APSA's cost of goods sold.

We adjusted for VAT in accordance with our practice. (See the United States Price section of this notice, above.)

B. CINSA

We also used home market price for CINSA, when sufficient quantities of such or similar merchandise were sold in the home market, at or above the cost of production (COP), to provide a basis for comparison.

Home market price was based on the packed, delivered and ex-factory price to certain related and unrelated purchasers in the home market. In our margin calculations, we used sales to related parties which we found were at arm's length. We made deductions from home market price for discounts, where applicable.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement* v. *United States*, 13 F.3d 398 (Fed. Cir. 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the COS provision of 19 CFR 353.56(a). Accordingly, in the present case, we adjusted for post-sale home market inland freight charges under the COS provision of 19 CFR 353.56(a). We did not deduct pre-sale inland freight charges because, as in the fifth administrative review, CINSA did not demonstrate to the Department's satisfaction that these expenses are directly related to sales of the subject merchandise. Because CINSA did not report warehousing as a direct selling expense, it is reasonable to assume that freight to the warehouse also is not directly related to sales. *See Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand*, 60 FR 29553, 29563 (June 5, 1995) for a complete discussion on the Department's policy concerning pre-sale movement charges.

Pursuant to section 773(a)(4)(B) and 19 C.F.R. 353.56(a)(2), we made a COS adjustment, where appropriate, for differences in credit expenses. We recalculated home market credit using the revised interest rate reported in the May 2, 1994, supplemental response. Also, as stated in this response, we did not calculate credit expenses for sales in the home market where there were missing pay dates. We determined that the bank fees associated with the letter of credit transactions for certain U.S. customers are a direct selling expense and have added these fees to FMV. We deducted home market commissions and added U.S. indirect selling expenses capped by the amount of home market commissions.

We adjusted for VAT in accordance with our practice. (*See* the ''United States Price'' section of this notice, above.)

Cost of Production

With regard to CINSA, there is a history of sales below the COP. In order to determine whether home market prices were below COP within the meaning of section 773(b) of the Act, we performed a product-specific cost test, in which we examined whether each home market product sold during the POR was priced below the COP of that product. For CINSA's home market models for which there were insufficient sales at or above the COP, we used CV.

Regarding APSA, petitioner's June 18, 1993, letter requested an extension for filing a sales below cost allegation, however, no such allegation was filed with the Department. Therefore, we did not perform a sales below cost analysis of APSA.

A. Calculation of COP

We calculated COP based on the sum of respondent's cost of materials, fabrication, general expenses and packing costs, in accordance with 19 CFR 353.51(c). In our COP analysis, we have relied on COP information submitted by CINSA, except in the following instances where it was not appropriately quantified or valued: 1) We included expenses related to employee profit sharing in the cost of manufacture; 2) We revised CINSA's submitted interest costs to exclude the calculation of negative interest expense; and adjusted the VAT amount included in COP.

B. Test of Home Market Sales Prices

As required by section 773(b) of the Act, we tested whether a substantial quantity of respondent's home market sales of subject merchandise were made at prices below COP over an extended period of time. We also tested whether such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a product-specific basis, we compared the COP (net of selling expenses) to the reported home market prices, less any applicable movement charges, rebates, and direct and indirect selling expenses. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' If between 10 and 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, and sales of that product were also found to be made over an extended period of time, we disregarded only the below-cost sales. Where we found that more than 90 percent of the respondent's sales of a product were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POR in which that product was sold. If a product was sold in three or more months of the POR, we do not exclude below-cost sales unless there were below-cost sales in at least three months during the POR. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.,* where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom,* 60 FR 10558, 10560 (February 27, 1995).

C. Results of COP Test

We found that for certain products, between 10 and 90 percent of CINSA's home market sales were sold at below COP prices over an extended period of time. Because CINSA provided no indication that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with section 773(b) of the Act, we based FMV on CV for all U.S. sales left without a home market sales match as a result of our application of the COP test.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, general expenses and packing costs. In accordance with section 773(e)(1)(B) (i) and (ii), we used: (1) The actual amount of general expenses because those amounts were greater than the statutory minimum of ten percent and (2) the actual amount of profit where it exceeded the statutory minimum of eight percent.

We recalculated the respondent's CV based on the methodology described in the calculation of COP above, with the exception of the VAT adjustment. In addition, we revised CV profit based upon the calculation provided by CINSA.

Price-to-CV Comparisons

Where we made CV to PP comparisons, we made a COS adjustment for direct selling expenses.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period December 1, 1991, through November 30, 1992:

Manufacturer/exporter	Review period	Margin (percent)
APSA	12/1/91–11/30/92	1.65
CINSA	12/1/91–11/30/92	4.93

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held no later than seven days after the scheduled date for submission of rebuttal briefs. Case briefs will be due on April 22, 1996, and rebuttal briefs, limited to issues raised in the case briefs, will be due on April 29, 1996. We will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement will be effective for all shipments of subject merchandise from Mexico 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 Tariff Act: (1) the cash deposit rates for the reviewed companies will 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 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 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 the ''all others'' rate of 29.52 percent from the original investigation.

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 Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 29, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–5257 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–427–811]

Certain Stainless Steel Wire Rods From France: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by Imphy S.A., and Ugine-Savoie, respondents, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel wire rods from France. This review covers the above manufacturers/exporters of the subject merchandise to the United States. The period of review (POR) is August 5, 1993 through December 31, 1994.

We have preliminarily determined that respondents sold subject merchandise at less than normal value (NV) during the POR. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief (no longer than five pages, including footnotes) summary of the argument.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen Jacques or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3434 or (202) 482–4037, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On December 29, 1993, the Department published in the Federal Register (58 FR 68865) the final affirmative antidumping duty determination on certain stainless steel wire rods from France, and published an amended final determination and antidumping duty order on January 28, 1994. On January 12, 1995, the Department published the Opportunity to Request an Administrative Review of this order for the period August 5, 1993–December 31, 1994 (60 FR 2941). The Department received a request for administrative review from Imphy, S.A., (''Imphy'') and Ugine Savoie (''Ugine''), related producers/exporters of the subject merchandise on January 30, 1995. We initiated the review on February 15, 1995. On November 7, 1995, the Department published in the Federal Register its notice extending the deadline in this review (60 FR 56142).

The Department is now conducting this review in accordance with section 751 of the Act. The review covers sales of certain stainless steel wire rods by Imphy, Ugine, and their affiliated companies, Metalimphy Alloys Corp. (''MAC''), and Techalloy Company, Inc. (''Techalloy'').

Scope of the Review

The products covered by this administrative review are certain stainless steel wire rods (SSWR), products which are hot-rolled or hot-rolled annealed, and/or pickled rounds, squares, octagons, hexagons, or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling, are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this review is currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, and 7221.00.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by the respondent by using standard verification procedures, including onsite inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Transactions Reviewed

In accordance with Section 751 of the Act, the Department is required to determine the normal value and export price (EP) or constructed export price (CEP) of each entry of subject merchandise during the relevant review period. Because there can be a significant lag between entry date and sale date for CEP sales, it has been the Department's practice to examine U.S. CEP sales during the period of review. *Gray Portland Cement and Clinker from Japan; Final Results of Antidumping Duty Administrative Review,* 58 FR 48826 (1993) (Dept. did not consider ESP (now CEP) entries which were sold after the POR). The Court of International Trade has upheld the Department's practice in this regard. *See, The Ad Hoc Committee of Southern California Producers of Gray Portland Cement* v. *United States,* CIT Slip Op. 95–195, December 1, 1995.[1]

The Department has adopted an exception to its practice of examining all U.S. sales during the period of review. That exception applies when a respondent is able to demonstrate, to the satisfaction of the Department, that the merchandise covered by a particular sale entered prior to the suspension of liquidation pursuant to the Department's preliminary determination in the LTFV investigation. *See, High-Tenacity Rayon Filament Yarn, Preliminary Results of Antidumping Duty Administrative Review,* 59 FR 32181 (1994) (specific sales excluded when linked to pre-suspension entries); *compare, Certain Corrosion-Resistant Carbon Steel Flat Products from Australia; Preliminary Results of Antidumping Duty Administrative Review,* 60 FR 42507 (1995) (sales not excluded when respondent unable to link them to specific pre-suspension entries). Merchandise proven to have entered the U.S. prior to the suspension of liquidation (and in the absence of an affirmative critical circumstances finding) is not subject merchandise within the meaning of section 771(25) of the Act.

In this review, respondent claimed that certain merchandise was not

[1] Although the CIT, in *Ad Hoc,* accepted that ''consideration of all sales, rather than entries, made during the period of review *may* result in the consideration of entries made prior to the suspension of liquidation'', *Ad Hoc* is not a case in which the respondent linked specific sales during the POR to specific entries prior to the suspension of liquidation. *Ad Hoc,* Slip Op. at 19 (emphasis added).

subject to review because it entered prior to the period of review for sale by an affiliated U.S. company during the period of review. The Department verified that respondent was able to link certain sales during the period to entries of merchandise prior to the suspension of liquidation. Because respondent has demonstrated that certain merchandise entered prior to the suspension of liquidation, we excluded sales of that merchandise from our analysis.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the Scope of the Review section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix III of the Department's June 20, 1995 antidumping questionnaire and additional specifications listed in our December 1, 1995 supplemental questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents and verified by the Department.

Level of Trade

As set forth in section 773(a)(2)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, at 829–831, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade.

In accordance with section 773(a)(7)(A) of the Act, if we compare a U.S. sale at one level of trade to normal value sales at a different level of trade, the Department will adjust the normal value to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and at the level of trade of the NV sale. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which normal value is determined. When constructed export price is applicable, section 773(a)(7)(B) of the Act establishes the procedures for making a constructed export price offset when: (1) normal value is at a different level of trade, and (2) the data available do not provide an appropriate basis for a level of trade adjustment from the U.S. sale. Also, in accordance with section 773(a)(7)(B), to qualify for a CEP offset, the level of trade in the home market must also constitute a more advanced stage of distribution than the level or trade of the CEP.

In order to identify levels of trade, the Department must review information concerning selling functions of the exporter. Therefore, in addition to the questions related to the level of trade in our June 20, 1995, questionnaire, on December 13, 1995, we sent respondents supplemental questions related to level of trade comparisons and adjustments. We asked respondents to establish any claimed levels of trade based on selling functions performed and services offered to each customer or customer class, and to document and explain any claims for a level of trade adjustment.

Respondents' reported one level of trade in the home market (to end users) and two channels of distribution: 1) direct to end users; and 2) through Ugine Service, a joint-venture between Imphy and Ugine which acts as a selling arm. We examined and verified the selling functions performed in each channel and found that the two sales channels provided many of the same or similar selling functions including: strategic planning, order evaluation, warranty claims, technical services, inventory maintenance, packing and freight and delivery. We found some differences between the two channels of trade in advertising, customer contacts, computer systems (order input/invoice system), and administrative functions. Overall, we determine that the selling functions between the two sales channels are sufficiently similar to consider them as one level of trade in the home market.

For the U.S. market, respondents claimed that they sold to two levels of trade: 1) end users through MAC (EP sales); and 2) distributors, e.g., MAC, Techalloy and US&A (CEP sales). We examined and verified the selling functions performed for U.S. sales to end users through MAC and determined that they are at the same level of trade as home market sales. We then examined and verified that different (fewer) selling functions were performed for U.S. sales to distributors than for home market sales. Specifically, we found the selling functions were sufficiently different in customer sales contacts, technical services, inventory maintenance, computer systems and administrative functions to warrant treating U.S. sales to distributors and the home market sales as different levels of trade.

To the extent practicable, we compared normal value at the same level of trade as the U.S. sale. Because we compared these CEP sales to home market sales at a different level of trade, we examined whether a level of trade adjustment may be appropriate. In this case, respondent only sold at one level of trade in the home market; therefore, there is no basis upon which respondent can demonstrate a consistent pattern of price differences between levels of trade. Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products and there are no other respondents or other record information on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a level of trade adjustment but the level of trade in the HM is a more advanced stage of distribution than the LOT of the CEP sale, a CEP offset is appropriate. Respondents claimed a CEP offset for those U.S. CEP and CEP/FM (CEP/Further Manufactured) sales compared to sales in France through Ugine Service. We included a CEP offset for all sales in France which are compared with CEP and CEP/FM sales in the United States since the comparison of home market sales to CEP sales is at a different level of trade. We applied the CEP offset to normal value or constructed value, as appropriate (See *Fair Value Comparisons Section,* below). The level of trade methodology employed by the Department in these preliminary results of review is based on the facts particular to this review. The Department will continue to examine its policy for making level of trade comparisons and adjustments for its final results of review.

Fair Value Comparisons

To determine whether sales of SSWR by respondents to the United States were made at less than fair value, we compared the EP or CEP to the normal value (NV), as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions. Where possible, in calculating a monthly weighted average normal

value, we averaged home market sales across the channel of distribution most comparable to that in which the U.S. transaction was made. Where there were no home market sales through that channel of distribution, we averaged home market sales through the other channel of distribution.

Export Price and Constructed Export Price

We used EP, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was sold directly or indirectly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts of record. In addition, we used CEP in accordance with subsections 772(b), (c) and (d) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States.

We made adjustments as follows:

We calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for discounts, foreign inland freight, foreign brokerage and handling, international freight, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties. We also adjusted the starting price for billing adjustments to the invoice price.

We calculated CEP sales based on packed prices to unaffiliated customers. Where appropriate, we made deductions for early payment discounts, credit expenses, warranty expenses, other direct selling expenses and commissions. We deducted those indirect selling expenses, including inventory carrying costs and product liability premiums, that related to commercial activity in the United States. We also made deductions for foreign brokerage and handling, foreign inland freight, international freight, U.S. inland freight, U.S. brokerage and handling, and U.S. duty and harbor fees. We also adjusted the starting price for billing adjustments to the invoice price and for interest revenue. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

Further Manufacturing

For product that was further manufactured after importation, we adjusted for all value added in the United States, including the proportional amount of profit attributable to the value added. We computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity (including further manufacturing costs), based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since respondents' aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Where appropriate, we deducted discounts, credit expenses, warranty expenses, inland freight, inland insurance and packing. We also adjusted the starting price for billing adjustments to the invoice price and interest revenue. We did not adjust the starting price for commissions in the home market (please see the Concurrence Memo for a discussion of this issue).

To calculate the CEP offset, we took the home market indirect selling expenses and deducted this amount from normal value, on home market sales which were compared to U.S. CEP sales. We limited the home market indirect selling expense deduction by the amount of the indirect selling expenses incurred in the United States.

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, where the difference in merchandise adjustment for any product comparison exceeded 20 percent, we based normal value on CV. In addition, in accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Further, because we disallowed all home market commissions, we deducted from normal value the lesser of either (1) the amount of commission paid on a U.S. sale for a particular product, or (2) the amount of indirect selling expenses incurred on the home market sales for a particular product.

Price to CV Comparisons

Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses.

Cost of Production Analysis

Based on the fact that the Department had disregarded sales in the LTFV investigation because they were made below the cost of production (COP), the Department found reasonable grounds in this review, in accordance with section 773(b)(2)(A)(ii) of the Act, to believe or suspect that respondents made sales in the home market at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether the respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of respondents' cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. We relied on the respondents' reported COP amounts.

B. Test of Home Market Prices

We used the respondents' weighted-average COP for the POR. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether they were at prices which permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and direct and indirect selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(c), where less than 20 percent of respondents' sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we disregarded the

below-cost sales because we determined that the below-cost sales were made within an extended period of time in ''substantial quantities'' in accordance with section 773(b)(2)(B) of the Act, and because we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(b)(1) of the Act.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of respondents' cost of materials, fabrication, SG&A , U.S. packing costs, interest expenses and profit as reported in the U.S. sales databases. In accordance with sections 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We relied on the respondents' reported CV amounts. For selling expenses, we used the weighted-average home market selling expenses.

Arm's-Length Sales

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct and indirect selling expenses, discounts and packing. Where the price to the related party was 99.5 percent or more of the price to the unrelated party, we determined that the sale made to the related party was at arm's-length. Where no related customer ratio could be constructed because identical merchandise was not sold to unrelated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made comparison to the next most similar model.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' For these preliminary results of review, we have determined that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. Therefore, when we determined a fluctuation existed, we substituted the benchmark for the daily rate.

Preliminary Results of the Review

As a result of our comparison of USP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin
Imphy/Ugine-Savoie	8/5/93–12/31/94	5.01

Parties to the proceeding may request disclosure within five 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 or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 180 days after the date of publication of this notice.

Upon completion of this review, the following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of SSWR from France, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) the cash deposit rate for the reviewed companies will be that established in the final results of review; (2) for exporters not covered in this review, but covered in the LTFV investigation, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.51 percent, the ''All Others'' rate made effective by the LTFV investigation. These 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.

These preliminary results of review are published pursuant to section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: February 28, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–5259 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–25–P

[A–489–501]

Certain Standard Welded Carbon Steel Pipe and Tube from Turkey; Extension of Time Limits of Antidumping Duty Administrative Review

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

ACTION: Notice of Extension of Time Limits of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the preliminary and final results in the administrative review of the antidumping duty order on certain standard welded carbon steel pipe and tube (pipe and tube) from Turkey, covering the period May 1, 1994, through April 30, 1995, since it is not practicable to complete the review within the time limits mandated by the

Tariff Act of 1930, as amended, 19 U.S.C. 1675(a) (the Act).

EFFECTIVE DATE: March 6, 1996.

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

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce received a request to conduct an administrative review of the antidumping duty order on pipe and tube from Turkey. On June 13, 1995, the Department initiated this administrative review covering the period May 1, 1994, through April 31, 1995. The Department adjusted the time limits by 28 days due to the government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. *See* Memorandum to the file from Susan G. Esserman, Assistant Secretary for Import Administration, January 11, 1996.

It is not practicable to complete this review within the time limits mandated by section 751 (a) (3) (A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to June 27, 1996, and for the final results to December 24, 1996.

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

These extensions are in accordance with section 751 (a) (3) (A) of the Act.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Dated: February 28, 1996.

[FR Doc. 96–5258 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

[Docket No. 960214029–6029–01]

RIN 0640–XX01

Implementation of Pilot Community-Based Enhanced Services (CBES) Initiative in Baltimore, Maryland, and the Identification of Other Markets To Be Considered as Alternatives to the Minority Business Development Center Program for the Delivery of Management and Technical Assistance to Minority Firms and Entrepreneurs

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) will begin to implement, on a pilot basis, its Community-Based Enhanced Services (CBES) Initiative in the Baltimore, Maryland Metropolitan Statistical Area (MSA) as an alternative to the Minority Business Development Center (BDC) Program. Under the CBES Initiative, the Department of Commerce has made a financial assistance award to the Empower Baltimore Management Corporation (Empower Baltimore), a Maryland non-profit corporation, to assist Empower Baltimore in establishing a comprehensive minority business assistance program. Through the efforts of Empower Baltimore, the services provided under this award shall be coordinated with the activities of Baltimore's Federal Empowerment Zone. Should the Baltimore pilot prove successful, MBDA has also identified other markets which will be assessed to determine the feasibility of providing services under a fully developed and implemented CBES Initiative.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Webber, IV, Assistant Director for Operations, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230. (202) 482–3237.

SUPPLEMENTARY INFORMATION: The CBES Initiative is a community-based strategy that seeks to identify joint venture partners with whom MBDA can collaborate in order to provide an enhanced level of services to minority firms. The purpose of the CBES program is to enable MBDA to enter into strategic alliances, coordinating the delivery of its services with those of other entities capable of assisting in minority and/or small and disadvantaged business development in a particular market. The collaborative approach of CBES is intended to maximize opportunities for MBDA to leverage its funding with state, local, public, non-profit and private funding in order to produce the most effective coordinated services available to the local service area.

Under this pilot CBES Initiative, Empower Baltimore has been selected as the recipient of federal funding. Empower Baltimore is the non-profit corporation established by the City of Baltimore to coordinate all activities arising from Baltimore's designation as a Federal Empowerment Zone, and to administer all funds earmarked for the Zone. Services to the minority business community under this award will be provided by the Council for Economic and Business Opportunity, Inc. (CEBO), a Maryland-based non-profit organization with over twenty-seven (27) years of experience in minority business development. The total annual cost of this project will be $575,000. The federal share will be $250,000 per year. The recipient's non-federal share, in the amount of $325,000, will be derived from client fees, in-kind contributions, and substantial additional funding awarded to CEBO by the City of Baltimore, Baltimore County and other non-federal sources.

The terms of this award require CEBO to continue to provide general management and technical assistance and other business assistance to minority firms and entrepreneurs in the Baltimore MSA, using its existing non-federal funding. The proceeds from the federal financial assistance will be used to provide specialized and enhanced management and technical assistance in the areas of 1) finance and capital development, and 2) marketing and procurement. As the singular organization charged with managing Baltimore's Empowerment Zone, Empower Baltimore brings a unique capability to coordinate all of the economic development activity within the Zone, and to insure that MBDA's goals for minority business development are achieved.

The selection of CEBO as subcontractor was based on a comprehensive market assessment prepared by the research firm of D.J. Miller & Associates, Inc., an independent consultant under contract with MBDA. The purpose of the assessment was to examine the business environment for minority firms in the Baltimore, MSA, identifying the particular needs of local minority firms, and to identify resource providers and service organizations providing assistance to the minority business community. Since the Baltimore pilot is being used to test the CBES Initiative, MBDA proceeded to conduct an internal review of the organizations listed in the report to determine which one would be best able to accomplish the program goals of the award, based on existing capabilities and funding levels. CEBO was identified from this review as the most suitable provider. Should the Baltimore pilot prove to be successful and the CBES Initiative expanded to other markets, the Department of Commerce will make future awards on a competitive basis.

Statement of Policy:

The CBES Initiative is considered to be an alternative service delivery program which could replace the BDC Program in certain selected markets. The Empower Baltimore Award will be

used to test the feasibility of the Initiative. One of the key benefits of the CBES approach is that it enables MBDA, with the participation of joint venture partners, to deliver management and technical assistance services that are specifically tailored for a given minority business community.

In its initial stage, markets targeted for CBES will undergo a comprehensive community assessment, which will be used to determine the feasibility of providing service to those markets under the CBES Initiative and, if appropriate, to design a coordinated funding and service delivery strategy for its subject market, including the identification of community-based organizations and service providers who, by virtue of their resources and expertise, would constitute potential joint venture partners. Subject to funding availability, and shifts in the Agency's program goals with respect to specific markets, MBDA expects to assess the following locations to determine the feasibility of providing service to these markets under the CBES Initiative: Anaheim/Santa Ana, California; Los Angeles, California; Oxnard, California; San Francisco, California; Jacksonville, Florida; Orlando, Florida; Tampa/St. Petersburg, Florida; Atlanta, Georgia; Chicago, Illinois; Shreveport, Louisiana; Boston, Massachusetts; Las Vegas, Nevada; Newark/Jersey City, New Jersey; Bronx, New York; Charlotte, North Carolina; Cincinnati, Ohio; Brownsville, Texas; Corpus Christi, Texas; El Paso, Texas; Houston, Texas; Laredo, Texas; McAllen, Texas; San Antonio, Texas; and Washington, D.C.

The comprehensive market assessments of these locations will also be prepared by the research firm of D.J. Miller & Associates, Inc. These assessments will result in written final reports which will then be used to determine the optimum service delivery strategy for each market. Organizations interested in being included in the market assessments should contact the further information contact listed at the beginning of this notice.

MBDA will contribute federal funding to selected joint ventures, and its best practices experience and technical support from its headquarters and regional offices. Recipients of direct federal funding will be limited to non-profit organizations, state, local or Indian tribal entities. State and local governments, as well as private funding sources, will be attracted to the joint venture because the pooling effect of funds for a common mission will allow all partners to realize a greater return on investment. Furthermore, the delivery of enhanced services through community-based partners decreases the dependency of the project on any single funding source, and facilitates the development of the project as a long-term resource in its local market.

Individual notices, which will solicit applications for Federal funding on a competitive basis, will be published in the Federal Register as new markets are identified for inclusion in the CBES Initiative.

Authority:

15 U.S.C. § 1512 and Executive Order 11625.

Dated: February 28, 1996.

Joan Parrott-Fonseca,

Director, Minority Business Development Agency.

[FR Doc. 96–5260 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–21–P

National Oceanic and Atmospheric Administration

[Docket No. 960130020–6020–01]

RIN 0648–2A18

Joint and Cooperative Institute Program

AGENCY: Office of Oceanic and Atmospheric Research (OAR), Environmental Research Laboratories (ERL), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: NOAA issues this notice to announce its Fiscal Year 1996 funding plan to continue its financial support of the Cooperative and Joint Institutes sponsored by the NOAA Environmental Research Laboratories. The Cooperative and Joint Institute Program establishes formal, collaborative research agreements between ERL through the Office of the Director and participating universities. The primary purpose of each institute is to create a mechanism to bring together the resources of a research-oriented university, the ERL and other branches of NOAA in order to develop a center of excellence in research relevant to understanding the Earth's oceans, the Great Lakes, inland waters, arctic regions, solar terrestrial environment, intermountain west and the atmosphere.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Moll, Program Manager, OAR/ERL Joint Institute Program 1315 East-West Highway (R/E), Silver Spring, Maryland 20910. (301) 713–2474. Internet:mmoll@rdc.noaa.gov.

SUPPLEMENTARY INFORMATION: The institutes represent a close research link between ERL, other branches of NOAA and the academic units of various universities. The collaboration between the universities and NOAA provides an interdisciplinary approach and a pooling of resources required to address the needs of the universities and NOAA for better scientific understanding, and of NOAA for improved capability of environmental prediction and other mission-related goals. NOAA funds activities of the institutes through cooperative agreements with the universities to support and stimulate research in defined areas which comport with NOAA's mission as authorized pursuant to 49 U.S.C. App. § 1463, 33 U.S.C. § 883d, and 15 U.S.C. § 2904.

The institutes are established by a Memorandum of Understanding (MOU) between NOAA and each university. The MOU identifies the unique capabilities of the university, the interdisciplinary areas for proposed themes of research, and structure of the institute. Each participating organization takes full financial and operational responsibility for its employees affiliated with the institute. The director of the institute is a university senior faculty/staff member. The location of the institutes are generally on university property. Financial assistance is not provided through the MOU. The research themes and associated administrative costs of the institutes are currently funded by a cooperative agreement. The period of the cooperative agreement for the Fiscal Year 1996 funding cycle will be for five years.

Subject to the availability of funds, NOAA intends to continue supporting the following institutes during the Fiscal Year 1996 funding cycle.

The Cooperative Institute for Research in Environmental Sciences/University of Colorado (CIRES). The University of Colorado is the only university co-located with NOAA research laboratories in Boulder, and the only university in the Colorado area that has the critical mass or the quality of atmospheric chemistry to support the Climate and Global Change and Air Quality programs of NOAA. CIRES' research themes include environmental chemistry, atmospheric and climate dynamics and solid earth sciences.

The Cooperative Institute for Research in the Atmosphere/Colorado State University (CIRA). The Colorado State University is the only other Colorado university co-located with a NOAA research program, and is the only university in Colorado that has a graduate meteorological program that is required to support the Climate and

Global Change and weather research missions of NOAA. CIRA's research themes include global climate dynamics, local weather forecasting, applied cloud physics, satellite observations, air quality, and numerical modeling.

The Cooperative Institute for Mesoscale Meteorological Studies/University of Oklahoma (CIMMS). The University of Oklahoma is the only university in the Norman area co-located with the NOAA research laboratory, and it is unique in graduate mesoscale meteorology research and training—a primary consideration for the study of tornadoes and severe convective storm processes. Also co-located with CIMMS are the National Weather Service Forecast Office and the Operational Support Facility, CIMMS' research themes include basic convective and mesoscale research, forecast improvements, climate effects of/controls on mesoscale processes, socioeconomic effects of mesoscale weather systems and regional climate variations.

The Cooperative Institute for Limnology and Ecosystems Research/University of Michigan (CILER). The University of Michigan is the only university co-located with the NOAA Great Lakes ERL. The University is the only one in the Ann Arbor area that has expertise in Great Lakes limnology and ecosystems research. CILER's research themes include climate and large lakes dynamics, coastal and nearshore processes, and large lake ecosystem structure and function.

The Cooperative Institute for Marine and Atmospheric Studies/University of Miami (CIMAS). The Rosenstiel School of Marine Atmospheric Sciences, University of Miami, is the only university component co-located with NOAA/AOML. It is also co-located with NOAA/Southeast Fisheries Center, is the only university in the Miami region that has a graduate program in meteorological and oceanic research, and has the number and caliber of researchers able to effectively coordinate research with NOAA Fisheries, Climate and Global Change, Coastal Ocean and Hurricane research elements. CIMAS' research themes include climate variability, fishery dynamics and coastal ocean ecosystem processes.

The Cooperative Institute for Arctic Research/University of Alaska (CIFAR). The University of Alaska is the only university situated in the Arctic region that has graduate programs in the collaborative research areas of fisheries oceanography, hydrographic studies and sea ice dynamics, atmospheric research, climate dynamics and variability, tsumani research and prediction, and environmental assessment, monitoring and numerical modeling. CIFAR's research themes include all phases of arctic research.

The Cooperative Institute of Atmospheric Sciences and Terrestrial Applications/Desert Research Institute of the University and Community College System of Nevada (CIASTA). The Desert Research Institute (DRI) represents the University and Community College system of Nevada. NOAA's National Weather Service forecast office is co-located on DRI's campus. DRI and NOAA will continue to collaborate on weather, climate and remote sensing research. CIASTA's research themes include atmospheric physics and chemistry in mountainous regions, hydrology and water supply in the arid regions, aerospace remote sensing, atmospheric modification, and global environmental change.

The Joint Institute for the Study of Atmosphere and Oceans/University of Washington (JISAO). The University of Washington is the only university in the Seattle area co-located with NOAA/PMEL and is the only university in the Seattle area that has graduate research programs in oceanography and meteorology which coordinate research and support NOAA's Climate and Global Change, Coastal Ocean and Weather Research offices. JISAO's research themes include climate variability, estuarine processes, environmental chemistry, and interannual variability of fisheries recruitment.

The Joint Institute for Marine and Atmospheric Research/University of Hawaii (JIMAR). The University of Hawaii is co-located with the Tsunami Forecast Center, the National Marine Fisheries Center, the National Weather Service, is the closest university to the NOAA observatory on Mauna Loa and is the only U.S. university that supports graduate programs in Tsunami research. It is the only U.S. university that has a Pacific sea level measuring program, and is the only U.S. university sited geographically close enough to maintain a viable research program in fishery recruitment on volcanic islands in the Pacific. JIMAR's research themes include tsunamis, climate research, equatorial oceanography, fisheries oceanography and tropical meteorology.

Each of the universities provide the location/space, staff, and share in the financial support to operate the institutes. NOAA utilizes the institutes to collaborate on research and provides financial support to enhance the public benefits to be derived by universities' research activities. The institutes with universities are established based on their geographical location associated with the NOAA Environmental Research Laboratories and expertise in the research activity related to NOAA's mission.

The base funding for each institute generally ranges from $100,000 to $700,000 a year. The institutes' funding cycle will be contingent upon the appropriation of funds by the Congress of the United States and the legislature of the universities' states necessary for NOAA and the universities to meet all of their respective financial obligations.

NOAA does not intend to establish or fund new institutes at this time. This notice is not a solicitation for proposals.

Catalogue of Federal Domestic Assistance

The ERL institute program is listed in the Catalogue of Federal Domestic Assistance under number 11.432, Environmental Research Laboratories Cooperative Institutes and under number 11.455, Cooperative Science and Education Program.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

Dated: December 19, 1995.

Marilyn Moll,

Program Manager, OAR/ERL Joint Institute Program.

[FR Doc. 96–5267 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020196C]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammals

AGENCIES: National Marine Fisheries Service, (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; and U.S. Fish and Wildlife Service (FWS), Interior.

ACTION: Issuance of scientific research permit No. 985 (P405B).

SUMMARY: Notice is hereby given that a permit for scientific research has been issued to The Burke Museum, University of Washington, Seattle, WA 98195.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Northwest Region, NMFS, 7600 Sandpoint Way, NE BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310/980–4001);

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250); and

Director, Southeast Region, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813/570–5301).

SUPPLEMENTARY INFORMATION: On November 15, 1995, a document was published in the Federal Register (60 F.R. 57401) that a request for a scientific research permit had been submitted by the above-named individual. The request was to collect and import and/or export an unspecified number of specimen materials from dead individuals of all cetacean species, all pinniped species, all sirenian species, polar bears, sea and marine otters, worldwide, over a 5-year period for purposes of scientific research. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972 (MMPA) as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 *et seq.*), the regulations governing endangered species permits (50 CFR parts 217–227), and the Fur Seal Act of 1966 (16 U.S.C. 1151 *et seq.*) and regulations (50 CFR 215).

Issuance of this Permit as required by the ESA of 1973 was based on a finding that the permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in Section 2 of the ESA.

Dated: February 16, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: February 23, 1996.

Margaret Tieger,

Chief, Branch of Permits, Office of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 96–5234 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Notice of Meeting To Provide Information to the Public About the Sequence Search Systems Utilized by the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of Meeting.

SUMMARY: The Patent and Trademark Office (PTO) will hold a meeting to provide information to the public on the search systems used at the PTO to search nucleic acid sequences found in the patent applications. interested members of the public are invited to attend the meeting and provide input to the PTO on other available search systems.

DATES: The meeting will be held on Wednesday, April 3, 1996 from 9:00 a.m. until 1:00 p.m.

ADDRESSES: The meeting will be held in the PTO Patent Academy, Crystal Square 4, Suite 700, 1745 Jefferson Davis Highway, Arlington, Virginia, 22202.

FOR FURTHER INFORMATION CONTACT: John Doll by telephone at (703) 308–1123, by facsimile transmission to (703) 308–4930, by electronic mail at seqmeet@uspto.gov, or by mail marked to his attention addressed to the Assistant Commissioner for Patents, Box Comments-Patents, Washington, D.C., 20231.

SUPPLEMENTARY INFORMATION: The Commission of Patents and Trademarks is authorized under 35 U.S.C. 131 to cause an examination to be made of patent applications. The PTO has received a small number of patent applications each of which claim thousands of nucleic acid sequences. The search and examination of these applications will require the dedication of human and computer resources far in excess of normal workloads. These relatively few applications alone will require a large share of resources from both the sequences searching staff of the PTO Scientific and Technical Information Center (STIC) and the biotechnology examining staff for over a year. In an effort to get public suggestions on how the PTO can best meet this challenge, the PTO is establishing a dialog with its customers. On April 3, 1996, from 9:00 a.m. to 1:00 p.m., the PTO will host an open house meeting to provide information about our current sequence search systems, including the hardware and software utilized, types of claims found in typical biotechnology applications, and the search times and costs associated with the volume of sequences which have been filed. The meeting will take place in the PTO Patent Academy, Crystal Square 4, Suite 700, 1745 Jefferson Davis Highway, Arlington, Virginia 22202. PTO would welcome recommendations from the public on available search systems, strategies, automated solutions or suggestions for efficiencies to address these search and examination challenges.

Space is limited and reservations will be allotted on a first come, first served basis. Individuals interested in participating should contact John Doll, Director, Patent Examining Group 1800, by telephone at (703) 308–1123, by fax at (703) 308–4930, by mail marked to his attention addressed to the Assistant Commissioner for Patents, Box Comments-Patents, Washington, D.C. 20231 or over the Internet to seqmeet@uspto.gov. A request for participation should include the names and addresses of attendees, the number of spaces requested, affiliation, the area of expertise for each attendee and telephone number. PTO will confirm your participation by telephone.

Dated: March 1, 1996.

Lawrence J. Goffney,

Acting Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 96–5245 Filed 3–5–96; 8:45 am]

BILLING CODE 3510–16–M

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 (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 6 & 7 March 1996.

Time of Meeting: 0900–1700, 6 March 1996; 0930–1700, 7 March 1996.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board (ASB) Ad Hoc Study Group on ''Army Digitization Vulnerabilities'' will meet to hear selected briefings relative to the subject under study. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary 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. 96–5135 Filed 3–5–96; 8:45 am]

BILLING CODE 3710–08–M

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: 29 February 1996.

Time of Meeting: 0900–1700.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board (ASB) C4I Issue Group on ''A Strategy for Leveraging Commercial Technologies for Future Army Radios'' will meet to write a final report for the study. This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–5136 Filed 3–5–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 28 & 29 February 1996.

Time of Meeting: 0745–1730, 28 February1996; 0745–1300, 29 February 1996.

Place: USASSDC—Huntsville, AL.

Agenda: The Army Science Board (ASB) Independent Assessment Panel on ''Hit-To-Kill Interceptor Lethality'' will meet to consolidate lethality information from individual members and prepare a format for the outbrief. These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–5137 Filed 3–5–96; 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: 12 March 1996.

Time: 1000–1500 hours.

Place: 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. Ms. Michelle Diaz may be contacted for further information at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–5138 Filed 3–5–96; 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: 6 March 1996.

Time: 1000–1600 hours.

Place: 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 information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. Ms. Michelle Diaz may be contacted for further information at (703)695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–5139 Filed 3–5–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–205–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

February 29, 1996.

Take notice that on February 20, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed a prior notice request with the Commission in Docket No. CP96–205–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to upgrade an existing delivery point to Cincinnati Gas and Electric Company (Cincinnati) in Butler County, Ohio, under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Columbia proposes to upgrade its existing Millville/Menton Road Measuring Station [1] in Butler County, at which Texas Eastern Transmission Corporation (TETCO) has agreed to install additional measurement and regulation equipment and station piping. Columbia states that the proposed modifications would increase the capacity of the Millville/Menton Road Measuring Station from its current capacity of 7,600 Dth/day to 14,000 Dth/day in order to deliver gas to Cincinnati, who would then deliver the gas to Oxford Natural Gas Company (Oxford) at their existing Butler County Interconnection. Columbia also states

[1] Columbia owns this facility which is located on TETCO's Line 1 and serves as a Columbia receipt point from TETCO, as well as a Columbia delivery point to Cincinnati.

that it would pay the estimated construction cost of $146,640.

Columbia states that it would provide gas service to Oxford under Rate Schedules FTS and ITS of its FERC Gas Tariff. Columbia also states that the contracted natural gas volumes would be within certificated volumes.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 96–5169 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–149–000]

Columbia Gas Transmission Corporation; Notice of Limited Waiver of Tariff Provision

February 29, 1996.

Take notice that on February 26, 1996, Columbia Gas Transmission Corporation (Columbia), pursuant to Rule 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212) filed a petition for a limited waiver of Section 5 of its MS Rate Schedule to the extent necessary for Columbia's storage facilities to be treated as a point of sale for certain base gas to be retired by sale to Columbia's firm Storage Service (FSS) customers.

Columbia states that the prompt Commission action is justified given the time sensitive nature of the retirement proposal. Columbia states that the FSS customers' storage gas quantities have decline significantly as a result of recent cold weather. That decline has or will soon limit the customers' maximum daily withdrawal quantities (MDWQ) under applicable tariff provisions. The immediate availability of this base gas, which is already in storage, will allow the FSS customers to replenish their storage accounts without delay, thereby minimizing the deterioration of their FSS inventory.

Columbia states that it is proposing a retirement by sale of natural gas that is at least potentially subject to the regulations promulgated by Order Nos. 497 and 566. Columbia requests that its disposition of the base gas not be subject to Order Nos. 497 and 566 and their regulations.

Columbia requests that, to the extent deemed necessary by the Commission, Columbia be granted waiver by March 5, 1996 of Section 5 of its MS Rate Schedule in order to permit the immediate retirement by sale of the base gas out of storage as well as the separate waiver referenced covering Order Nos. 497 and 566.

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, Washington, DC 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 on or before March 7, 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. 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. 96–5173 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER95–321–000 and ER96–195–000]

Consolidated Edison Company of New York, Inc.; Notice of Filing

February 29, 1996.

Take notice that on February 16, 1996, Consolidated Edison Company of New York, Inc. (''Con Edison'') tendered for filing an amendment to its filing regarding Con Edison Rate Schedule FERC No. 129, a facilities agreement with Orange and Rockland Utilities, Inc. (''O&R'').

Con Edison states that a copy of this filing has been served by mail upon O&R.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, Dockets Room, Room 2A, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 12, 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. 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. 96–5171 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–210–000]

Koch Gateway Pipeline Co; Notice of Application

February 29, 1996.

Take notice that on February 23, 1996, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77521–1478, filed in Docket No. CP96–210–000 an application pursuant to Section 7(b) of the Natural Gas Act and Section 157.18 of the Commission's Regulations for an order permitting and approving the abandonment in place and removal of its Sharon Compressor Station and associated facilities located in Claiborne Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 21, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the

Commission or its designee on this application, if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

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

Lois D. Cashell,

Secretary.

[FR Doc. 96–5170 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1864]

Upper Peninsula Power Company; Notice Extending Time to File Scoping Comments

February 29, 1996.

The Federal Energy Regulatory Commission (FERC) issued an Environmental Impact Statement Scoping Document for relicensing the Bond Falls Hydroelectric Project, FERC Project No. 1864, on December 5, 1995. This hydropower project is located on major branches of the Ontonagon River, a tributary of western Lake Superior, in Ontonagon and Gogebic counties of the upper peninsula of Michigan, and Vilas County in northern Wisconsin.

In response to a letter filed by the Michigan Department of Natural Resources, and supported by other parties to be proceedings, FERC is extending the scoping comment period until March 16, 1996.

Anyone wishing to submit written scoping comments must do so no later than March 16, 1996. Comments should be addressed to: Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Reference should be clearly made to: Bond Falls Hydroelectric Project (Project No. 1864).

For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 96–5172 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM95–3–000 and Docket No. RM95–4–000]

Filing and Reporting Requirements for Interstate Natural Gas Companies Rate Schedules and Tariffs and Revisions to Uniform System of Accounts Forms, Statements, and Reporting Requirements for Natural Gas Companies; Notice of Data Availability for Working Groups

February 29, 1996.

Take notice that data is available on the Federal Energy Regulatory Commission's (Commission's) bulletin board system (BBS) for review by the Working Group—Forms and Working Group—Filings. The following information is now available on the Gas Pipeline Data (GPD) portion of the BBS:

—The meeting summaries for the working group meetings held on February 7 and 8, 1996, and

—The draft specifications for filing the Form No. 11 both on paper and electronically, incorporating the changes discussed at the working Group—Forms meeting held February 7.

In addition to the above, the Commission has enabled the upload feature of its bulletin board system for use by the working group participants and other interested persons. Any files uploaded to the Commission's bulletin board are not considered filed with the Commission. These files are solely for review by the working group and other interested parties to help in the development of formats for electronic filing requirements specified in Order Nos. 581 and 582.

The Commission invites written comments on the draft specifications for filing Form No. 11. Such comments may be uploaded to the Commission's BBS or addressed to Richard A. White, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426. Comments should be received by March 5, 1996. We encourage commenters to submit their written comments also on a 3½″ diskette in Rich Text Format or ASCII so they can be posted on the Commission's bulletin board. it is preferable for comments uploaded to the Commission's BBS to be in ASCII format so files may be viewed on-line and easily converted to other software formats.

The upload option, available under the Order No. 581/582 Working Group Menu, is designed to permit members of the public to upload a file to the Commission's bulletin board. To do so, select upload from the Working Group menu. You will be prompted for the File Mask. Enter the Drive, directory, if applicable, and the filename. If more than one file is to be uploaded, enter the file mask using wildcard characters for the unique portion of the filename. For example:

File Mask? C:/FERC/Form—11.txt

or

File Mask? C:/*tst.wk1 to represent Altst.wk1 B1tst.wk1, etc.

You will be prompted to enter a file description. A file description must accompany every file. The basic file description can be no more than 70 characters. You may, if you wish, enter a more detailed description. After typing the detailed description, select send to associate it with your file. Other menu features are explained under the Help option.

The system will not allow you to upload a file with the same name as a file already on the bulletin board. It is preferable to incorporate your company initials or some other unique identifier in the file name to distinguish your files from others files.

While the upload featured is in its testing phase, files uploaded to the Commission's bulletin board will not be immediately available for download. The party uploading the file may, however, check the file list to ensure the file uploaded properly.

This document is available for your inspection or copying by accessing the Commission Issuance Posting System (CIPS). CIPS and GPD are part of the Commission's electronic bulletin board service providing access to documents issued by or available electronically from the Commission. CIPS and GPD are available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397, if local, or 1–800 856–3920, if long distance.

In addition to this notice, the most current list of those that signed up for participation in the working groups will, also, be posted on CIPS. Information concerning working group meetings will be posted on CIPS on a regular basis. Up-to-date information can be found in bulletin 20 on CIPS or bulletin 9 on GPD.

To access the Commission's bulletin board system, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200, or 300 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format.

The Commission's bulletin board system can also be accessed through the FedWorld system directly by modem or through the Internet.

By modem:

Dial (703) 321–3339 and logon to the FedWorld system. After logging on, type: /go FERC

Through the Internet:

Telnet to: fedworld.gov
Select the option: [1] FedWorld
Logon to the FedWorld system
Type: /go FERC

Or:

Point your Web Browser to: http://www.fedworld.gov
Scroll down the page to select FedWorld Telnet Site
Select the option: [1] FedWorld
Logon to the FedWorld system
Type: /go FERC

Lois D. Cashell,

Secretary.

[FR Doc. 96–5168 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–435–018, et al.]

DC Tie, Inc., et al.; Electric Rate and Corporate Regulation Filings

February 28, 1996.

Take notice that the following filings have been made with the Commission:

1. D.C. Tie, Inc., R.J. Dahnke & Associates, PowerTec International

[Docket No. ER91–435–018; Docket No. ER94–1352–006; Docket No. ER96–1–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 8, 1996, D.C. Tie, Inc. filed certain information as required by the Commission's July 11, 1991, order in Docket No. ER91–435–000.

On February 5, 1996, R.J. Dahnke & Associates filed certain information as required by the Commission's August 10, 1994, order in Docket No. ER94–1352–000.

On February 15, 1996, Powertec International filed certain information as required by the Commission's December 1, 1995, order in Docket No. ER96–1–000.

2. Tucson Electric & Power Company

[Docket No. ER94–1424–000]

Take notice that on February 12, 1996, Tucson Electric & Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Pennsylvania Power & Light Company

[Docket No. ER96–932–000]

Take notice that on February 21, 1996, Pennsylvania Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Houston Lighting & Power Company

[Docket No. ER96–1124–000]

Take notice that on February 21, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Southwestern Electric Power Company (SWEPCO) for Economy Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 31, 1996.

Copies of the filing were served on SWEPCO and the Public Utility Commission of Texas.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Co.

[Docket No. ER96–1125–000]

Take notice that on February 21, 1996, Southern California Edison Company (Edison), tendered for filing the following agreement between Edison and the City of Azusa: Application and Contract for Added Facilities Between the City of Azusa and Southern California Edison Company.

Edison requests waiver of the Commission's 60-day notice requirement and an effective date of June 28, 1991.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Appalachian Power Company

[Docket No. ER96–1126–000]

Take notice that on February 21, 1996, Appalachian Power Company (APCo), tendered for filing with the Commission an Electric Service Agreement (ESA) that was executed by APCo and Old Dominion Electric Cooperative (ODEC) on February 12, 1996. The ESA sets forth the terms pursuant to which APCo proposes to supply additional wholesale electric service to ODEC at its existing Evington delivery point.

To match the effective date requested by ODEC, APCo proposes an effective date of March 15, 1996. APCo also states that a copy of its filing was served on ODEC, Virginia Electric and Power Company, which currently provides service to ODEC at its Evington delivery point, and the Virginia State Corporation Commission.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Century Power Corporation

[Docket No. ER96–1127–000]

Take notice that on February 21, 1996, Century Power Corporation tendered for filing Notices of Cancellation with respect to (i) Century's FERC Electric Tariff, Original Volume No. 1, and (ii) Century's Rate Schedule FERC No. 1. These are the last two Century schedules on file with the Commission for jurisdictional services.

Century states that it no longer owns any electric generating assets or makes any sales of electric energy at wholesale or retail. Century further states that a copy of its filing has been served on San Diego Gas & Electric Company, the only customer under either of the affected schedules.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER96–1128–000]

Take notice that on February 21, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and North Carolina Electric Membership Corporation (NCEMC). Duke states that the TSA sets out the transmission arrangements under which Duke will provide NCEMC firm transmission service under its Transmission Service Tariff.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–1129–000]

Take notice that on February 21, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala

Power and Light Company, and North Carolina Electric Membership Corporation (NCEMC). Duke states that the TSA sets out the transmission arrangements under which Duke will provide NCEMC non-firm transmission service under its Transmission Service Tariff.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power Company

[Docket No. ER96–1130–000]

Take notice that on February 21, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and NorAm Energy Services, Inc. (NorAm). Duke states that the TSA sets out the transmission arrangements under which Duke will provide NorAm non-firm transmission service under its Transmission Service Tariff.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Montaup Electric Company

[Docket No. ER96–1131–000]

Take notice that on February 21, 1996, Montaup Electric Company (Montaup) filed a credit of $4,172,382.35 under its Purchased Capacity Adjustment Clause (PCAC) to true up the amounts billed in 1995 under a forecast billing rate to conform with actual purchased capacity costs. The credit will appear in bills for January 1996 service rendered for all requirements service to Montaup's affiliates Eastern Edison Company in Massachusetts and Blackstone Valley Electric Company and Newport Electric Corporation in Rhode Island, and for contract demand service to two non-affiliates: Pascoag Fire District in Rhode Island and the Town of Middleborough in Massachusetts.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Power and Light Company

[Docket No. ER96–1132–000]

Take notice that on February 21, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 31, 1996, establishing Coastal Electric Services Company as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 31, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. South Carolina Electric & Gas Company

[Docket No. ER96–1133–000]

Take notice that on February 22, 1996, South Carolina Electric & Gas Company, tendered for filing proposed Contract for Purchases and Sales of Power and Energy between South Carolina Electric & Gas Company and LG&E Power Marketing, Inc.

Under the proposed contract, the parties will purchase and sell electric energy and power between themselves. South Carolina Electric and Gas Company also requested waiver of notice in order that the contract be effective on March 1, 1996.

Copies of this filing were served upon LG&E Power Marketing, Inc.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER96–1134–000]

Take notice that on February 22, 1996, UtiliCorp United Inc. (UtiliCorp) filed a service agreement with Heartland Energy Services, Inc. for service under its interruptible open access transmission service tariff for its operating division, Missouri Public Service.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. UtiliCorp United Inc.

[Docket No. ER96–1135–000]

Take notice that on February 22, 1996, UtiliCorp United Inc. (UtiliCorp) filed a service agreement with Heartland Energy Services, Inc. for service under its interruptible open access transmission service tariff for its operating division, WestPlains Energy-Colorado.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. UtiliCorp United Inc.

[Docket No. ER96–1136–000]

Take notice that on February 22, 1996, UtiliCorp United Inc. (UtiliCorp) filed a service agreement with Heartland Energy Services, Inc. for service under its interruptible open access transmission service tariff for its operating division, WestPlains Energy-Kansas.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Union Electric Company

[Docket No. ER96–1137–000]

Take notice that on February 22, 1996, Union Electric Company (UE), tendered for filing an Interchange Agreement dated January 30, 1996, between UE and the Byng Public Works Authority, Ada, Oklahoma. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for the types of power and energy to be exchanged.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. UtiliCorp United Inc.

[Docket No. ES96–18–000]

Take notice that on February 22, 1996, UtiliCorp United Inc. (UtiliCorp), filed an application, under § 204 of the Federal Power Act, seeking authorization to issue (i) corporate guaranties in support of Debt Securities in an amount of up to and including $40 million (Canadian) to be issued in one or more series by West Kootenay Power, Ltd. (WKP) on or before December 31, 1997, (ii) corporate guaranties in support of obligations under working capital lines of credit in an amount of up to and including $20 million (Canadian), and (iii) a $3.1 million Junior Subordinated Debenture to UtiliCorp Capital L.P. and for exemption from competitive bidding and negotiated placement requirements. WKP is a wholly-owned subsidiary of UtiliCorp British Columbia Ltd., which in turn is a wholly-owned subsidiary of UtiliCorp.

Comment date: March 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. TPC 4, Inc.

[Docket No. QF88–364–003]

On January 16, 1996, as amended on February 20, 1996, TPC 4 Inc. (Applicant) of 1455 Frazee Road, 9th Floor, San Diego, California 92108 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility is located in Kern County, California, to the west of the town of Mojave. The Commission previously certified the facility as a small power production facility,

Gamma Mariah, Inc., 44 FERC ¶ 61,442 (1988). A notice of self-certification was filed on December 30, 1994. The facility was recertified in *Gamma Mariah, Inc.* 53 FERC 62,243 (1990). The instant application for recertification is due to a change in the ownership structure of the facility.

Comment date: Thirty days after the date of publication of this notice in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–5167 Filed 3–5–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34089; FRL 5349–8]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 4, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 23 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 4, 1996 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000829–00236	SA-50 Brand Fruit Spray Concentrate	Methoxychlor	Plums
001386–00352	Methoxychlor Emulsifiable Concentrate	Methoxychlor	Grain storage bins
001386–00494	50% Methoxychlor Wettable Powder	Methoxychlor	Grain storage bins
002217–00129	50% Methoxychlor Wettable Powder	Methoxychlor	Farm buildings (livestock bldgs & premises), asparagus
002217–00131	Methoxychlor Emulsion Concentrate	Methoxychlor	Aerial applications, beaches, standing water, mosquito breeding areas, farm buildings, grain storage bins, elevator tunnels, peanut warehouses, freight cars, grain trucks, ships' hold, cranberries, asparagus
002217–00470	Alfa-Spray	Methoxychlor	Aerial application
002393–00280	Hopkins Malathion 57% Emulsifiable Liquid Insecticide B	Malathion	Almonds, apples, cowpea hay, filberts, peanuts, pears, plums, prunes, quinces, safflower, soybeans, sweet potatoes, tobacco, commercial greenhouse uses, forest crops, household uses, domestic pets, in and around house, dairies, food processing plants, livestock uses, stored products, in & around wineries, processing plants
002935–00385	Methoxychlor 2 Spray	Methoxychlor	Aerial application, grain/ cereal storage bins
003125–00449	DYLOX 80 SP Nursery Insecticide	Trichlorfon	Turf (sod farm) use
010107–00005	Methoxychlor E-2	Methoxychlor	Cranberries, farm buildings, grain storage bins, non-agricultural land
010107–00138	Rotenone Plus Copper Dust	Basic Cupric Sulfate	Terrestrial uses

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
010107–00139	Magestic Green 1% Rotenone Dust	Rotenone	Beans, cucumbers, melons, squash, pumpkins, tomatoes, potatoes, egg plants, cabbage, asparagus
010163–00172	Imidan Technical	Phosmet	Corn, citrus
028293–00153	Unicorn Rotenone Dip	Pyrethrins	Terrestrial crop uses
033955–00528	Acme Methoxychlor 50% Wettable	Methoxychlor	Farm buildings, asparagus
034704–00018	Clean Crop Malathion ULV Concentrate Insecticide	Malathion	Safflower, soybeans, sugar beets, beef cattle feed lots & holding pens, non- agricultural lands, tomatoes, forestry
034704–00102	Clean Crop Methoxychlor 2EC	Methoxychlor	Mosquito control on beaches, cranberries, dumps, elevator tunnels, farm buildings, freight cars, grain storage bins, grain trucks, mushroom houses, non-agricultural land, peanut warehouses, pet bedding, public parks, ships' holds, standing water, acreage & aerial application
034704–00108	Clean Crop Malathion 57EC	Malathion	Almonds, apples, cowpea hay, filberts, peanuts, pears, plums, prunes, quinces, safflower, soybeans strawberries, tobacco, stored commodity treatment, animal uses, bagged citrus pulp
034704–00119	Clean Crop Malathion 8EC Insecticide	Malathion	Almonds, apples cranberries, dates, filberts, pears, plums, quinces, inside buildings, stored grain, field & garden seeds, bagged citrus pulp, bagged surface treatment
034704–00205	Clean Crop Malathion/Methoxychlor Spray	Methoxychlor	Mosquito control on beaches, cranberries, dumps, elevator tunnels, farm buildings, freight cars, grain storage bins, grain trucks, mushroom houses, non-agricultural land, peanut warehouses, pet bedding, public parks, ships' holds, standing water, acreage & aerial application
034704–00565	Clean Crop Malathion	ULV Concentrate Insecticide	Flax, peas, safflower, soybeans, sugar beets, tomatoes, beef cattle feed lots & holding pens, forestry
034704–00679	Liquid Seed Treater	PCNB	Rice, sugar beets
034704–00749	Malathion 2 Home Lawn & Garden Spray	Malathion	Almonds, apples, plums, prunes, quinces, cranberries, soil incorporated application on strawberries

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000829	Southern Agricultural Insecticide, Inc., P.O. Box 218, Palmetto FL 34220.
001386	Universal Cooperatives, Inc., 7801 Metro Parkway, P.O. Box 460, Minneapolis, MN 55440.
002217	PBI/Gordon Corp., 1217 W. 12th St., P.O. Box 4090, Kansas City, MO 64101.
002393	Haco, Inc., P.O. Box 667, Greeley, CO 80632.
002935	Wilbur-Ellis Co., 191 W. Shaw Ave., Suite 107, Fresno, CA 93704.
003125	Bayer Corp., P.O. Box 4913, 8400 Hawthorn Rd., Kansas City, MO 64120.
010163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
010107	Cornbelt Chemical Co., P.O. Box 410, McCook, NE 69001.
028293	Unicorn Laboratories, 13535 Feather Sound Drive, Suite 400, Clearwater, FL 34622.
033955	PBI/Gordon Corp., P.O. Box 014090, 1217 West 12th Street, Kansas City, MO 64101.
034704	Platte Chemical Co., 419 18th Street, P.O. Box 667, Greeley, CO 80632.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 15, 1996.

Oscar Morales,

Acting Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 96–4969 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66221; FRL 5348–2]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by June 4, 1996, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the Federal Register before acting on the request.

II. Intent to Cancel

This notice announces receipt by the Agency of requests to cancel some 22 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000000 ID–95–0011	Provado 1.6 Flowable	1-((6-Chloro-3-pyridinyl)methyl)-*N*-nitro-2-imidazolidinimine
000000 WA–95–0026	Provado 1.6 Flowable	1-((6-Chloro-3-pyridinyl)methyl)-*N*-nitro-2-imidazolidinimine
000100 OR–91–0017	Funginex	*N,N'*-(1,4-Piperazinediylbis(2,2,2-trichloroethylidine)bis(formamide)
000100 WI–93–0004	Funginex	*N,N'*-(1,4-Piperazinediylbis(2,2,2-trichloroethylidine)bis(formamide)
000491–00201	Selig's Mister Trim No. 10	6,7-Dihydrodipyrido(1,2-a:2',1'-c)pyrazinediiumdibromide
000572–00053	Rockland Rotenone 1% Dust	Rotenone Cube Resins other than Rotenone
000572–00058	Rockland "homeowner" Vegetable-Tomato Dust	Copper sulfate Rotenone Cube Resins other than Rotenone
001270–00192	ZEP Mistic	Ethanol Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12}) Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C_{12}, 32%C_{14})
001685–00064	Formula 268 Aqua-Quat	6,7-Dihydrodipyrido(1,2-a:2',1'-c)pyrazinediiumdibromide
001791–00019	Super Chlor	Sodium hypochlorite
002217–00251	Mill and Farm Bin Spray	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane) (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
003125 OR–95–0011	Provado 1.6 Flowable	1-((6-Chloro-3-pyridinyl)methyl)-*N*-nitro-2-imidazolidinimine
005197–00040	Viro-Phene	Isopropanol 4-tert-Amylphenol *o*-Phenylphenol 1,2-Propanediol
006836–00176	Bio Guard Sl-25 Hospital Spray Disinfectant and Deodorant	Isopropanol Alkyl* dimethyl benzyl ammonium chloride *(58%C_{14}, 28%C_{16}, 14%C_{12})
006922–00024	Perkacit Thiram - 99	Tetramethyl thiuramdisulfide

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
010182 MN–93–0002	Fusilade 2000 Herbicide	Butyl (*R*)-2-(4-((5-(trifluoromethyl)-2-pyridinyl)oxy)phenoxy)propanoate
010663–00011	Yardman	6,7-Dihydrodipyrido(1,2-a:2',1'-c)pyrazinediiumdibromide
010807–00168	Misty Accur Spray III Wasp & Hornet Killer	(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
033955–00527	Acme Pestroy 25% Methoxychlor	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
034704–00759	1% Rotenone Dust	Rotenone Cube Resins other than rotenone
036301–00009	J-Chlor-2 Concentrate	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
064240–00012	Combat Ant and Roach Killer III	*d*-cis-trans-Allethrin *N*-Octyl bicycloheptene dicarboximide 4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000491	The Selig Chemical Industries, 840 Selig Dr., SW, Atlanta, GA 30378.
000572	Rockland Corp., 686 Passaic Ave., Box 809, West Caldwell, NJ 07007.
001270	ZEP Mfg. Co., Box 2015, Atlanta, GA 30301.
001685	The State Chemical Mfg. Co., 3100 Hamilton Ave., Cleveland, OH 44114.
001791	Savolite Inc., 10848 E. Marginal Way So., Seattle, WA 98168.
002217	James Armbruster, Regulatory Services, PBI-Gordon, Agent For: PBI/Gordon Corp., Box 014090, Kansas City, MO 64101.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
005197	Systems General, Inc., Box 152170, Irving, TX 75015.
006836	Lonza Inc., 17–17 Rte 208, Fair Lawn, NJ 07410.
006922	Akzo Chemie America, 300 S. Riverside Plaza, Chicago, IL 60606.
010182	Zeneca Ag Products, Box 15458, Wilmington, DE 19850.
010663	Sentry Chemical Co., 1481 Rock Mountain Blvd., Stone Mountain, GA 30086.
010807	AMREP, Inc., 990 Industrial Dr., Marietta, GA 30062.
033955	James Armbruster, Regulatory Services, PBI-Gordon, Agent For: PBI/gordon Corp., Box 014090, Kansas City, MO 64101.
034704	Platte Chemical Co. Inc., c/o William M. Mahlburg, Box 667, Greeley, CO 80632.
036301	Degesch America, Inc., Houston Division, 14802 Park Almeda Drive, Box 451036, Houston, TX 77245.
064240	Combat Insect Control Systems, c/o PS & RC, Box 493, Pleasanton, CA 94566.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before June 4, 1996. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in Federal Register No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific

disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 15, 1996.

Oscar Morales,

Acting Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 96–4970 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180993; FRL 5349–9]

Bifenthrin; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the California Environmental Protection Agency and the Arizona Department of Agriculture (hereafter referred to as the ''Applicants'') to use the pesticide bifenthrin [CAS 82657–04–3 (cis isomer) and CAS 83322–02–5 (trans isomer)] to treat up to 113,000 and 28,000 acres, respectively, of cucurbits (cucumbers, melons, pumpkins, and squash) to control the sweet potato whitefly. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments must be received on or before March 21, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180993,'' should be submitted by mail 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 comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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 in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180993]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (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 provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8791; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a State agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of bifenthrin on cucurbits to control the sweet potato whitefly. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The sweet potato whitefly (SPWF) is a relatively new pest on cucurbits. The SPWF has caused severe economic damage to several other commodities nationwide including cotton, lettuce, squash, beans, peanuts, and ornamentals. SPWF causes damage through feeding activities, and also indirectly through the production of a honeydew, which encourages growth of sooty mold and other fungi. This pest also causes a physiological disorder resulting in irregular ripening of fruit, believed to be caused by transmission of a geminivirus. The Applicants claim that adequate control of the SPWF is not being achieved with the currently registered compounds. The Applicants claim that significant economic losses are expected in California and Arizona cucurbit production if the SPWF is not adequately controlled, and are therefore requesting this use of bifenthrin.

The Applicants propose to apply bifenthrin at a maximum rate of 0.1 lb. active ingredient (a.i.) (6.4 oz. of product) per acre with up to three applications allowed, and a maximum of 0.3 lb. a.i. per acre per season, on a total of 113,000 acres of cucurbits in California, and 28,000 acres of cucurbits in Arizona. It is possible to produce two cucurbit crops per calendar year on a given acre, and therefore, the acreage could potentially receive 6 applications, (maximum of 0.6 lb. a.i. per acre) per calendar year. Therefore, use under these exemptions could potentially amount to a maximum total of 60,000 lbs. of active ingredient in California and 8,400 lbs. of active ingredient in Arizona.

This notice does not constitute a decision by EPA on the applications themselves. This is the sixth year that this use has been requested under section 18. The regulations governing section 18 require that the Agency publish notice of receipt in the Federal Register and solicit public comment on an application for a specific exemption proposing use of a pesticide if an emergency exemption has been requested or granted for that use in any 3 previous years, and a complete application for registration of that use and/or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency [40 CFR 166.24(a)(6)].

A record has been established for this notice under docket number [OPP–180993] (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 Resource 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 notice, 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the California Environmental Protection Agency and the Arizona Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: February 23, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4971 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180994; FRL 5350–1]

Mancozeb; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wisconsin Department of Agriculture, Trade, and Consumer Protection (hereafter referred to as the ''Applicant'') to use the pesticide, mancozeb to treat up to 4,167 acres of ginseng to control stem and leaf blight. An emergency exemption for this use has been requested for the previous 3 years, and a complete application for registration of this use and tolerance petition has not been submitted to the Agency. In addition, this emergency exemption has been subject to a Special Review. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 21, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180994,'' should be submitted by mail to: Public Response and Program Resource Branch, 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, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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 in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180994]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (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 provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of mancozeb on ginseng to control stem and leaf blight.

Information in accordance with 40 CFR part 166 was submitted as part of this request. According to the Applicant, Alternaria blight rarely kills the ginseng root, which is the marketed portion; however, loss of the foliage results in significant root yield loss in a harvested crop, and retards root growth and overwintering ability in younger crops. Infestations of Alternaria blight in one season greatly increase the potential for epidemics in subsequent seasons, since the fungus remains in the infected plant debris. Rovral 50W, the only fungicide carrying a section 3 label for use against Alternaria blight on ginseng, is no longer effective since Alternaria panax has developed resistance to it. If not controlled, Alternaria blight can be expected to infest all of Wisconsin's 5,000 acres of ginseng and growers will suffer significant economic loss.

Under the proposed exemption 2.0 lbs of product [(1.5 lbs of active ingredient (a.i.)] per acre will be used on 4,167 acres. A maximum of 12 applications at a minimum of 7-day intervals will be made by ground equipment using a minimum of 80 gallons of water per acre. A 28 day pre-harvest interval will be observed.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the Federal Register and solicit public comment on an application for a specific exemption if an emergency exemption has been subject to a Special Review, and is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is or has been

subject of the Special Review. [CFR 166.24 (a)(5)].

The Agency initiated a Special Review of the ethylene bisdithiocarbamate (EBDC) fungicides on July 17, 1987, which includes mancozeb. A notice of final determination was issued March 2, 1992. The Agency took this action based on an assessment of the risks from exposure to ethylenethiourea (ETU) present in, or formed as a result of metabolic conversion from, pesticide products containing the active ingredient mancozeb. ETU, a potential human carcinogen, teratogen, and thyroid toxicant, is present as a contaminant, degradation product, and metabolite of all the EBDC pesticides. The Agency concluded that the estimated cumulative risk of 10^{-5} from all current 55 food uses was unacceptable and, therefore, canceled the following 11 food uses: apricots, carrots, celery, collards mustard greens, nectarines, peaches, rhubarb, spinach succulent beans and turnips. These cancellations reduce estimated lifetime dietary risk to 1.6×10^{-6} which the Agency has determined does not outweigh the benefits of the 44 retained uses.

The regulations also require the Agency to publish a notice of receipt in the Federal Register and solicit public comment on an application for a specific exemption if an emergency exemption has been requested or granted for that use in any 3 previous years, and a complete application for registration of that use has not been submitted to the Agency [40 CFR 166.24(a)(6)]. Exemptions for the use of mancozeb on ginseng have been requested for the past 9 years (1987 – 1996). The registrant, Rohm and Haas, has indicated that they intend to pursue a registration in cooperation with IR–4 this year. However, an application for registration of this use has not been submitted to the Agency.

A record has been established for this notice under docket number [OPP–180994] (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 Resource 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 notice, 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: February 22, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4965 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180995; FRL 5350–2]

Metolachlor; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption requests from the Wisconsin Department of Agriculture, Trade and Consumer Protection and the Virginia Department of Agriculture and Consumer Services (hereafter referred to as the ''Applicants'') to use the pesticide metolachlor to treat up to 160 acres in Jefferson, Marquette and Waushara counties in Wisconsin and 1,000 acres in Virginia of spinach to control grasses and weeds. The Applicants propose the use of an emergency exemption which has been requested for the previous 3 years. A complete application for registration of this use and a tolerance petition has not been submitted to the Agency. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 21, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180995,'' should be submitted by mail to: Public Response and Program Resource Branch, 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, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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 in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180995]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (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 provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of metolachlor on spinach to control grasses and weeds. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicants, the discontinued production of diethatyl ethyl (Antor) by Nor-Am Chemical Company has left spinach growers without an efficacious registered alternative. Spinach is grown entirely on drained muck soil in Wisconsin. These high organic matter soils render the registered alternative, Roneet 6E ineffective as a pre-emergent treatment to control grasses and weeds. Roneet does not control the pineapple weed nor galinsoga weeds of Virginia. These weeds contaminate the spinach and cannot be economically removed by hand on cleaning belts in packing houses. Without the use of metolachlor, spinach growers could suffer significant economic losses.

Under the proposed exemptions, a maximum of one ground application at the rate of 2.00 pounds of active ingredient per acre will be used on 160 acres of spinach in Jefferson, Marquette, and Waushara counties in Wisconsin. A maximum of one pre-emergence application per crop (three harvest periods) at a rate of 0.75 to 1.0 pounds of active ingredient per acre by ground or air equipment will be made on 1,000 acres in Virginia.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of an emergency exemption which has been requested in any 3 previous years, and a complete application for registration of the use and/or a tolerance petition has not been submitted to the Agency [40 CFR 166.24 (a)(6)]. This is the fourth year this use has been requested under section 18 of FIFRA and no tolerance petition has yet to be submitted. According to applicants, IR-4 is planning to prepare a petition package in late 1996. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180995] (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 Resource 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 notice, 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 record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Wisconsin Department of Agriculture, Trade, and Consumer Protection and the Virginia Department of Agriculture and Consumer Services.

List of Subjects

Environmental protection, pesticides and pests, emergency exemptions.

Dated: February 22, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4966 Filed 3–5–96 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Proposed Related Services; Real Estate Brokerage, Farm Management, and Minerals Management

AGENCY: Farm Credit Administration.

ACTION: Public notice.

SUMMARY: On July 17, 1995, the Farm Credit Administration (FCA or Agency), published a request for public comments regarding an inquiry by a Farm Credit System (System or FCS) institution for approval to offer Real Estate Brokerage, Farm Management, and Minerals Management service programs as authorized ''Related Services.'' The public comment period closed on September 15, 1995. Subsequently, the request for approval by the FCS institution was withdrawn, and the Agency is no longer considering the request.

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Gary K. Van Meter, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On July 17, 1995, the FCA requested public comment (60 FR 36415) on the following related services that were being contemplated under § 618.8000: Real Estate Brokerage Services, Farm Management Services, and Minerals Management Services.

The regulation at § 618.8000 requires a prior determination that any new services, not previously authorized and placed on the Related Services List (RS List), are legally authorized and do not present excessive risk to the requesting institution or the System as a whole. Because of the complex nature of these proposed services, the FCA solicited public comment prior to acting on the request, in accordance with the guidelines recently adopted in § 618.8010(b)(3).

Many comments were received from FCS institutions, real estate brokers, auctioneers, commercial bankers, and Members of Congress. However, before the Agency completed its deliberations, the FCS institution that had originally requested approval of real estate brokerage, farm management, and minerals management services withdrew its request. Because the request was withdrawn, approval of the three services and their addition to the RS List is no longer under consideration by the Agency.

Dated: March 4, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–5421 Filed 3–4–96; 2:07 pm]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 96–05]

Rose International, Inc. v. Overseas Moving Network International, et al.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Rose International, Inc. (''Complainant'') against Overseas Moving Network International (''OMNI''), OMNI Shipping Services, Inc., American International, Inc., Cartwright International Van Lines, Inc., Crown Overseas Movers, Inc., Graebel Movers International, Inc., Movers International, Inc., Ocean-Air International, Inc., Sentry Household Shipping, Inc. and Victory Van Corporation (collectively designated ''Respondents'') was served February 29, 1996. Complainant alleges that Respondents have violated, and continue to violate, sections 10(a)(1), (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(10), (b)(11), (b)(12) and (d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(a)(1), (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(10), (b)(11), (b)(12), and (d)(1), in connection with their activity and practices surrounding service contracts between OMNI and the Trans-Atlantic Conference Agreement, and its predecessor, the Trans-Atlantic Agreement.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by February 28, 1997, and the final decision of the Commission shall be issued by June 30, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 96–5143 Filed 3–5–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. § 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. § 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 29, 1996.

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

1. Home Financial Bancorp, Spencer, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Owen Community Bank, s/b/, Spencer, Indiana.

Applicant also has applied to engage directly in making loans and other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

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

1. Republic Bancshares, Inc., Natoma, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of United National Bank of Natoma, Natoma, Kansas.

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

1. Medina Community Bancshares, Inc., Hondo, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Community National Bank, Hondo, Texas.

Board of Governors of the Federal Reserve System, February 29, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–5175 Filed 3–5–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 952–3388]

Georgetown Publishing House Limited Partnership; Georgetown Publishing, Inc.; Daniel Levinas; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the Washington, D.C.-based publishing firm from misrepresenting that an advertisement is an independent review or article, or that it is not a paid advertisement. The consent agreement settles allegations that Georgetown used

deceptive advertising practices to promote the sale of a book titled *The American Speaker: Your Guide to Successful Speaking.*

DATES: Comments must be received on or before May 6, 1996.

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

FOR FURTHER INFORMATION CONTACT: Joel Winston, Federal Trade Commission, S–4002, 6th and Pennsylvania Avenue NW., Washington, DC 20580. (202) 326–3153. Lesley Anne Fair, Federal Trade Commission, S–4002, 6th and Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–3081.

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

In the matter of: Georgetown Publishing House Limited Partnership, a limited partnership; Georgetown Publishing House, Inc., a corporation; and Daniel Levinas, individually and as an officer of said corporation.

File No. 952–3388.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Georgetown Publishing House Limited Partnership, a limited partnership; Georgetown Publishing House, Inc., a corporation; and Daniel Levinas, individually and as an officer of Georgetown Publishing House, Inc. (''proposed respondents''); and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Georgetown Publishing House Limited Partnership, by its duly authorized General Partner; Georgetown Publishing House, Inc., by its duly authorized officer; and Daniel Levinas, individually and as an officer of Georgetown Publishing House, Inc.; and counsel for the Federal Trade Commission that:

1. Proposed respondent Georgetown Publishing House Limited Partnership is a limited partnership organized, existing, and doing business under and by virtue of the laws of the District of Columbia, with its principal office or place of business at 1101 30th Street NW., Washington, D.C. 20007.

Proposed respondent Georgetown Publishing House, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the District of Columbia, with its principal office or place of business at 1101 30th Street NW., Washington, D.C. 20007. Georgetown Publishing House, Inc., is General Partner of Georgetown Publishing House Limited Partnership.

Proposed respondent Daniel Levinas is an officer of Georgetown Publishing House, Inc. Individually or in concert with others, he formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

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

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

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

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents Georgetown Publishing House Limited Partnership, a limited partnership, and its successors and assigns; Georgetown Publishing House, a corporation, its successors and assigns, and its officers; and Daniel Levins, individually and as an officer of said corporation; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or indirectly, that such product has been independently reviewed or evaluated;

B. Misrepresenting, directly or indirectly, that an advertisement is an independent review or article or is not a paid advertisement.

II

It is further ordered that respondents Georgetown Publishing House Limited Partnership and Georgetown Publishing House, Inc., their successors and assigns, shall for a period of five (5) years from the date of entry of this Order maintain and make available to the Federal Trade Commission within seven (7) business days of the date of the receipt of a written request, business records demonstrating compliance with the terms and provisions of this order.

III

It is further ordered that respondents Georgetown Publishing House Limited Partnership and Georgetown Publishing House, Inc., their successors and assigns, shall:

A. Within thirty (30) days after service of this order, provide a copy of this order to each of its current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order; and

B. For a period of ten (10) years from the date of entry of this order, provide a copy of this order to each of its future principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order within three (3) days after the person commences his or her responsibilities.

IV

It is further ordered that respondents Georgetown Publishing House Limited Partnership and Georgetown Publishing House, Inc., their successors and assigns, shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation or partnership, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other change in the corporation or partnership that may affect compliance obligations arising out of this order.

V

It is further ordered that respondent Daniel Levinas shall, for a period of five (5) years from the date of entry of this order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment which involves the sale of consumer products. Each notice of affiliation with any new business or employment shall include the respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

VI

It is further ordered that this order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

VII

It is further ordered that respondents shall, within sixty (60) days after service of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Georgetown Publishing House Limited Partnership; Georgetown Publishing House, Inc.; and Daniel Levinas, the president of Georgetown Publishing House. The respondents sell various business publications, including *The American Speaker: Your Guide to Successful Speaking*, which are advertised through direct mail promotions to consumers.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

In this case, proposed respondents sent direct mail solicitations to consumers for *The American Speaker: Your Guide to Successful Speaking.* The solicitation was headed with the word ''REVIEW'' and was printed on glossy paper with a torn left margin, similar in appearance to an article torn out of a magazine. The bottom of the page included the words ''page 17'' and ''November 1994,'' suggesting that the ''review'' had appeared on that page of a monthly magazine. The second page of the ''review'' included the carry-over conclusion of an unrelated article crossed out by hand that was purportedly ''continued from page 12.'' Attached to the purported ''review'' was a post-it note containing the handwritten notation:

[Recipient's name],

Try this.

It works!

J

The Commission's complaint in this matter charges the proposed respondents with falsely representing that the direct mail solicitation was a book review written by an independent journalist and reviewer and had been disseminated in a magazine or other independent publication. In fact, according to the complaint, the clipping was not an independent review from a magazine sent by an acquaintance. Rather it was an advertisement written and sent by the proposed respondents.

The proposed order contains provisions designed to remedy the alleged violations. Part I of the proposed order prohibits the proposed respondents from misrepresenting that any product has been independently reviewed or evaluated. In addition, Part

I prohibits the proposed respondents from misrepresenting that an advertisement is an independent article or review or is not a paid advertisement. The proposed order also contains standard recordkeeping and reporting requirements, including a provision sunsetting the order after twenty years under certain circumstances.

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

Donald S. Clark,

Secretary.

[FR Doc. 96–5225 Filed 3–5–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3014]

Mrs. Fields Cookies, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the Salt Lake City, Utah-based corporation from misrepresenting the amount of fat, saturated fat, cholesterol, or calories in any bakery food products. The consent agreement settles allegations that Mrs. Fields touted a cookie line as ''low fat'' in advertising and promotional materials when the fat content of two cookies in the line exceeded the amount of fat that qualifies as ''low fat'' under Food and Drug Administration regulations.

DATES: Comments must be received on or before May 6, 1996.

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

FOR FURTHER INFORMATION CONTACT: Phoebe D. Morse, Boston Regional Office, Federal Trade Commission, 101 Merrimac Street, Suite 810, Boston, Massachusetts 02114–4719, (617) 424–5960.

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

In the matter of: Mrs. Fields Cookies, Inc., a corporation. File No. 952 3014.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Mrs. Fields Cookies, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Mrs. Fields Cookies, Inc., by its duly authorized officer and attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Mrs. Fields Cookies, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 462 West Bearcat Drive, Salt Lake City, UT 84115.

2. Proposed respondent admits all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

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

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

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

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint, or that the facts as alleged in the attached draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Mrs. Fields Cookies, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of

any food in or affecting commerce, as ''food'' and ''commerce'' are defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, through numerical or descriptive terms or any other means, the existence or amount of fat, saturated fat, cholesterol or calories in any bakery food product, whether cooked or uncooked. If any representation covered by this Part either directly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in that regulation.

II

Nothing in this Order shall prohibit respondent from making any representation that is specifically permitted in labeling for any food by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

III

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All test, reports, studies, surveys, demonstrations or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

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

V

It is further ordered that respondent shall, within thirty (30) days after service of this Order, distribute a copy of this Order to each of its operating divisions, to each manager of its company-owned and franchised stores, and to each of its officers, agents, representatives, and employees engaged in the preparation or placement of advertisements or promotional materials covered by this Order.

It is further ordered that respondent shall, within sixty (60) days after service of this Order, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

VII

This Order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph of this Order that terminates in less than twenty (20) years;

B. This Order's application to any respondent that is not named as a defendant in such complaint; and

C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Mrs. Fields Cookies, Inc. (''Mrs. Fields'').

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

This matter concerns claims made by Mrs. Fields in its advertising for three new cookies it introduced in 1994. The Commission's complaint charges Mrs. Fields with engaging in unfair or deceptive practices in connection with the advertising these cookies. According to the complaint, Mrs. Fields falsely represented that all three of the new cookies are low fat.

The consent order contains provisions designed to remedy the violations charged and to prevent Mrs. Fields from engaging in similar deceptive and unfair acts and practices in the future.

Part I of the order prohibits Mrs. Fields from misrepresenting the existence or amount of fat, saturated fat, cholesterol or calories in any bakery food product, whether cooked or uncooked. Part I also requires that any representation covered by this Part that conveys a nutrient content claim defined for labeling by any regulation of the Food and Drug Administration (''FDA'') must comply with the qualifying amount set forth in that regulation.

Part II of the order provides that representations that would be specifically permitted in food labeling, under regulations issued by the FDA pursuant to the Nutrition Labeling and Education Act of 1990, are not prohibited by the order.

Part III of the order requires Mrs. Fields to maintain copies of all materials relied upon in making any representation covered by the order.

Part IV of the order requires Mrs. Fields to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part V of the order requires Mrs. Fields to distribute copies of the order to its operating divisions and to various officers, agent and representatives of Mrs. Fields.

Part VI of the order requires Mrs. Fields to file with the Commission one or more reports detailing compliance with the order.

Part VII of the order is a ''sunset'' provision, dictating that the order will terminate twenty (20) years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–5226 Filed 3–5–96; 8:45 am]

BILLING CODE 6750–01–M

OFFICE OF GOVERNMENT ETHICS

Proposed Extension of Collection; Comment Request for the SF 278 Public Financial Disclosure Report

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics plans to submit the Standard Form (SF) 278 which it sponsors for a three-year extension of approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The SF 278 is henceforth to be accompanied by agency notification to filers of certain modified reporting requirements not yet incorporated into the form itself; OGE also intends to work on a future modified form to eventually replace the existing SF 278.

DATES: Comments on this proposed extension should be received by May 20, 1996.

ADDRESSES: Comments should be sent to William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917. Comments may also be sent electronically to OGE's Internet E-mail address at oge@attmail.com (for E-mail messages, the subject line should include the following reference—''SF 278 paperwork comment'').

FOR FURTHER INFORMATION CONTACT: Mr. Gressman at the Office of Government Ethics; telephone: 202–523–5757, ext. 1110; FAX: 202- 523–6325. A copy of a blank SF 278 form may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is planning to submit, after this notice and comment period, the SF 278 Executive Branch Personnel Public Financial Disclosure Report (OMB control number 3209–0001) for a three-year extension of approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The current paperwork approval for the SF 278 is scheduled to expire at the end of September 1996. Since, for now (see discussion below), no modification to the standard form is being proposed, OGE will not need to seek General Services Administration (GSA) clearance for the future request for extension of OMB paperwork approval.

The Office of Government Ethics, as the supervising ethics office for the executive branch of the Federal Government under the Ethics in Government Act (the ''Ethics Act''), is the sponsoring agency for the SF 278, the most recent edition of which is that of June 1994. The prior January 1991 edition also remains usable until supplies are exhausted. In accordance with section 102 of the Ethics in Government Act, 5 U.S.C. app. § 102, and OGE's implementing financial disclosure regulations at 5 CFR part 2634, the SF 278 collects pertinent financial information from certain officers and high-level employees in the executive branch for conflicts of interest review and public disclosure. The financial information collected under the statute and regulations relates to: assets and income; transactions; gifts, reimbursements and travel expenses; liabilities; agreements or arrangements; outside positions; and compensation over $5,000 paid by a source—all subject to various reporting thresholds and exclusions.

The SF 278 is completed by candidates, nominees, new entrants, incumbents and terminees of certain high-level positions in the executive branch of the Federal Government. The Office of Government Ethics, along with the agencies concerned, conducts the review of the SF 278 reports of Presidential nominees subject to Senate confirmation. This group of nominee reports forms the basis of OGE's paperwork estimates. In light of OGE's experience over the past three years (1993–1995), the estimate of the total number, on average, of such nominee's SF 278 forms expected to be filed annually at OGE by members of the public (as opposed to current Federal employees), primarily by private citizen nominees and private representatives (lawyers, accountants, brokers and bankers) of both private citizen and Federal employee nominees, remains 280.

The estimated average amount of time to complete the report form, including review of the instructions, is also the same—three hours. Thus, the overall estimated annual public burden for the SF 278 for the nominee report forms processed at the Office of Government Ethics will stay at 840 hours. Moreover, OGE estimates, based on the agency ethics program questionnaire responses for 1994 (the most recent survey available), that some 22,500 SF 278 report forms are filed annually at departments and agencies throughout the executive branch. Most of those executive branch filers are current Federal employees at the time they file, but certain candidates for President and Vice President, nominees, new entrants and terminees complete the form either before or after their Government service. The percentage of private citizen filers branchwide is estimated at no more than 5% to 10%, or some 1,125 to 2,250 at most.

As noted above, the Office of Government Ethics is asking executive branch departments and agencies to notify filers of the SF 278 of certain recent changes in the reporting law as regards higher-category (over $1,000,000) assets, income and liabilities. In addition, OGE itself will notify concerned filers holding qualified blind trusts of a modification as to reportable trust interests. See sections 20 and 22 of the Lobbying Disclosure Act of 1995, Public Law 104–65, which amended the Ethics in Government Act. There may also be a need to modify the gifts/reimbursement reporting thresholds if the ''minimal value'' under the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, is raised by GSA to over $250 (the Ethics Act reporting thresholds are pegged to any increase over that amount of ''minimal value''). If so, this change would likewise be handled for now by OGE and agency notification to filers. In the next year or two, OGE intends to begin work on an eventual successor form to the current version of the SF 278 that would reflect these recent changes as well as add express mention, on the public burden information block, of a statement pursuant to the 1995 amendments to the paperwork law to the effect that ''an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number,'' together with a parenthetical mention that such number is displayed in the upper right-hand corner of the front page of the form. Serious consideration will also be given to any other appropriate changes, including possible redesign of the form at that time. That future form may either be a modified standard form or a new OGE form and will be subject to appropriate clearances before issuance. Again, for now, OGE is not proposing to modify the SF 278 report form itself, but rather will ask that departments and agencies notify their filers of the modifications to the reporting requirements and new paperwork statement when the existing SF 278 forms are provided for completion (OGE will notify concerned filers of the changes as to qualified blind trust interests).

Based on an OGE request last year as approved by the General Services Administration, the SF 278 Public Financial Disclosure Report can now be electronically duplicated without standard form exception clearance pursuant to GSA's Federal Information Resources Management Regulation Bulletin B–3, provided that the bulletin's strict duplication standards (precisely paralleling the original paper form to the extent feasible) are complied with. Thus, departments and agencies can develop their own electronic SF 278 forms. The Office of Government Ethics is also considering development of a stand-alone electronic SF 278 form that would be made available free of charge or at cost to executive branch departments and agencies. In addition, that electronic version of the form could be placed on OGE's electronic bulletin board entitled ''The Ethics Bulletin Board System'' (TEBBS). For now, OGE notes that even with these electronic initiatives, the SF 278 reports, once completed, will still need to be printed out and signed manually. Electronic filing is not authorized at the present time for the SF 278s.

Public comment is invited on each aspect of the SF 278 Public Financial Disclosure Report as set forth in this notice, including specifically views on the need for and practical utility of this collection of information, the accuracy of OGE's burden estimate, the potential for enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology).

Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of the OMB paperwork approval for this information collection. The comments will also become a matter of public record.

Approved: February, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 96–5250 Filed 3–5–96; 8:45 am]

BILLING CODE 6345–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Availability of the Report of the Commission on Research Integrity

Notice is hereby given of the availability of the final Report of the Commission on Research Integrity: Integrity and Misconduct in Research. The mandate of the Commission was to develop recommendations for the Secretary of Health and Human Services (DHHS) and the Congress on the administration of Section 493 of the Public Health Service Act, as amended by and added to by Section 161 of the NIH Revitalization Act of 1993.

Henrietta D. Hyatt-Knorr, Executive Secretary of the Commission on Research Integrity, can be reached at Rockwall II, Suite 700, 5515 Security Lane, Rockville MD 20852, (301) 443–3400 (phone), (301) 443–5351 (fax), or at hhyatt@osophs.ssw.dhhs.gov (Internet). The report is available on the World Wide Web (WWW) at the ORI Homepage at http://phs.os.dhhs.gov/phs/ori/ ori—home.html. To access the report go to ''Publications'', ''Additional'', and Number 10: ''Integrity and Misconduct in Research.'' All interested parties are encouraged to access the report in this manner.

The Executive Secretary can also provide a WordPerfect 5.1 or 6.1 version on a disk. Please submit the request along with a 3½″, formatted disk (IBM-compatible) and a self-addressed, stamped envelope.

Printed copies of the report are available free of charge from the Executive Secretary.

Henrietta D. Hyatt-Knorr,

Executive Secretary, Commission on Research Integrity.

[FR Doc. 96–5210 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–17–P

Administration for Children and Families

Office of Community Services

[Program Announcement No. OCS–96–02]

Request for Applications Under the Office of Community Services' Fiscal Year 1996 National Youth Sports Program

AGENCY: Office of Community Services, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for applications under the Office of Community Services' National Youth Sports Program.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under Section 682 of the Community Services Block Grant Act of 1981, as amended. This Program Announcement contains forms and instructions for submitting an application.

CLOSING DATE: The closing time and date for receipt of applications is 4:30 p.m. (Eastern Time Zone) April 22, 1996.

Applications received after 4:30 p.m. will be classified as late.

CONTACT: Joseph R. Carroll, Acting Director, Division of Community Discretionary Programs, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, (202) 401–9345.

This Announcement is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.

Part A—Preamble

1. Legislative Authority

Section 682 of the Community Services Block Grant Act, as amended, authorizes the Secretary of Health and Human Services to make a grant to an eligible service provider to administer national or regional programs designed to provide instructional activities for low-income youth.

2. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

—Low-income youth: a youth between the ages of 10 through 16 whose family income does not exceed the DHHS Poverty Income Guidelines.

—Eligible Applicant: A national private nonprofit organization, a coalition of such organizations, or a private nonprofit organization applying jointly with a business concern that has demonstrated experience in operating a program providing instructions to low-income youth.

—Budget period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

—Project period: The total time for which a project is approved for support, including any approved extensions.

Part B—Application Prerequisites

1. Eligible Applicants

OCS will only consider those applications received from entities which are eligible applicants as specified in Part A 2. of this Announcement. Non-profit organizations must submit proof of their non-profit status in their applications at the time of submission. Failure to do so will result in rejection of their

applications. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate, *and* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

2. Number of Grants, Grant Amount, and Matching Requirements

a. Number of Grants

The OCS anticipates, subject to the availability of funds, that one grant will be made under this program.

b. Grant Amounts

Estimated twelve million dollars ($12,000,000) subject to final appropriation.

c. Matching Requirements

The grants require a match of either cash or third party in-kind of one dollar for each dollar awarded up to $9,400,000 and a cash match of 29% of the Federal funds requested in excess of $9,400,000.

3. Project Period and Budget Period

The project and budget periods must not exceed 12 months, with significant amount of program activities to be undertaken in the period covering June, July and August 1996.

4. Administrative Costs/Indirect Costs

No funds from a grant made under this program may be used for administrative expenses. To the extent that indirect costs are not administrative in nature, such costs may be allowed provided the grantee has negotiated an approved Indirect Cost Rate Agreement which excludes administrative expenses. However, it should be understood that indirect costs are part of, and not in addition to, the amount of funds awarded in the subject grant.

5. Program Beneficiaries

Projects proposed for funding under this Announcement must result in direct benefits targeted toward 10–16 year olds from low-income families.

Attachment A to this Announcement is an excerpt from the most recently published Poverty Income guidelines. Annual revisions of these Guidelines are normally published in the Federal Register in February or early March of each year and are applicable to projects being implemented at the time of publication. Grantees will be required to apply the most recent Guidelines throughout the project period. The Federal Register may be obtained from public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. In addition, it may be obtained by downloading from the OCS Electronic Bulletin Board. (See instructions under **CONTACT** at the beginning of this document.)

No other government agency or privately defined poverty guidelines are applicable to the determination of low-income eligibility for this OCS program.

6. Multiple Submittals

An applicant organization should not submit more than one application under this Program Announcement.

Part C—Purpose and project Requirements

1. Purpose

The Department of Health and Human Services is committed to improving the health and physical fitness of young people, particularly those that are members of low-income families and residents of economically disadvantaged areas of the United States.

The Department seeks to improve the lives of these young people through sports skill instruction, counseling in good health practices, and counseling related to anti-drug and anti-alcohol abuse.

2. Project Requirements

Any instructional activity carried out by an eligible service provider receiving a grant under this Program Announcement shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act) and shall include—

a. access to the facilities and resources of such institution;

b. an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

c. at least one nutritious meal daily, without charge, for participating youth during each day of participation;

d. high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

e. enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and family and job responsibilities.

Part D—Review Criteria

Applications which pass the initial screening and pre-rating review described in Part G 5. will be assessed and scored by reviewers. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in this Announcement.

The in-depth evaluation and review process will use the criteria set forth below coupled with the specific requirements described in Part G.

Applicants should write their project narrative according to the review criteria using the same sequential order.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement

1. Criterion I: Location and number of institutions of Higher Education (Maximum: 20 points).

a. Applicant must describe and document the number and location of Institutions of Higher Education committed to participation in this program, with special attention to documenting the accessibility of the schools to economically disadvantaged communities (0–12 points).

b. Applicant must describe in the aggregate the facilities which will be available on the campuses of the institutions to be used in the program (swimming pools, medical facilities, food preparation facilities, etc.) (0–8 points).

2. *Criterion II:* Adequacy of Work Program (Maximum: 20 Points).

a. Applicant must set forth realistic weekly time targets (for the summer program) and quarterly time targets (for any extended-year program activities). The time targets should specify the tasks to be accomplished in the given timeframes. (0–8 points).

b. Applicant must address the legislatively-mandated activities found in Part C.2., to include: (1) project priorities and rationale for selecting them; (2) project goals and objectives; and (3) project activities. (0–12 points).

3. *Criterion III:* Significant and Beneficial Impact (Maximum: 20 points).

a. Applicant proposes to improve nutritional services to the participating youths (0–5 points).

b. Project incorporates medical examinations along with follow-up referral or treatment (0–5 points).

c. Project includes counseling, related to anti-drug and anti-alcohol abuse, by counselors with experience in those areas as a major element (0–5 points).

d. Project makes use of an existing outreach activity of a community action agency or some other community-based organization (0–5 points).

4. *Criterion IV:* Organizational Experience in Program Area and Staff Responsibilities (Maximum: 30 points).

a. Organizational experience in program area (0–10 points).

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided significant benefits to low-income youth. Information provided should also address the achievements and competence of the participating institutions.

b. Management history (0–10 points).

Applicants must fully detail their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. Applicants should submit any available documentation on their management practices and progress reporting procedures. Applicant should also submit a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect any Federal funds which may be awarded under this program.

c. Staffing skills, resources and responsibilities (0–10 points).

Applicant must briefly describe the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not been identified, the application should contain a comprehensive position description which indicates that the responsibilities assigned to the project director are relevant to the successful implementation of the project.

The application must indicate that the applicant and the subgrantees or delegate institutions have adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The application must clearly show that sufficient time of the project director and other senior staff will be budgeted to assure timely implementation and oversight of the project and that the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

5. *Criterion V:* Adequacy of Budget (Maximum: 10 points).

Budget is adequate and funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the program. The estimated cost of the project to the government is reasonable in relation to the anticipated results.

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application package should include one signed original and two additional copies of the following:

a. A signed Application for Federal Assistance (SF–424);

b. Budget Information—Non-Construction Programs (SF–424A);

c. A signed—Assurances—Non-construction Programs (SF–424B);

d. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that describes the project in the following order:

(i) Eligibility confirmation.

(ii) Number and location of Institutions of Higher Education committed to the program and their accessibility to youth from economically disadvantaged areas.

(iii) Organization experience and staff responsibilities.

(iv) Work program (including Executive Summary)

(v) Appendices, including Bylaws; Articles of Incorporation; proof of non-profit status; resume of project director; statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect Federal funds; Single Point of Contact comments, if available; certifications regarding Lobbying, Debarment and Drug Free Workplace activities.

The total number of pages for the entire application package should not exceed 50 pages. Applications should be two holed punched at the top and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications, or applications enclosed in binder, is especially discouraged.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only. They should not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They may be discarded, if included.

2. Acknowledgement of Receipt

All applicants will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement postcard. The assigned identification number must be referred to in all subsequent communications with ACF concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401–9365.

Part F—Instructions for Completing Application Package

It is suggested that the applicant reproduce the SF–424 and SF–424A, and type your application on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested write NA for ''Not Applicable''.

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as specific instructions set forth below:

1. SF–424 ''Application for Federal Assistance''

Item Numbers

1. For the purposes of this Announcement, all projects are considered ''Applications''; there are no ''Pre-applications''. All projects are non-construction projects. Check the appropriate box under ''Application''.

5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (EIN) and the Payment Identifying Number (PIN), if one has been assigned, in the Block entitled ''Federal Identifier'' located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter ''N'' in the box and specify ''non-profit corporation'' in the space marked ''Other.'' Proof of non-profit status must be included in the application at the time of submission. This can be accomplished by providing a copy of the applicant's listing in the Internal Revenue Services' (IRS) most

recent list of tax-exempt organizations in section 501(c)(3) of the IRS code *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

8. For the purposes of this Announcement, all applications are ''New''.

9. Enter DHHS–ACF/OCS.

10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this Announcement is 93.570. The title is ''CSBG Discretionary Awards.''

2. SF–424A—''Budget Information—Non-Construction Programs''

See instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the ''Federal Funds'' budget entries will relate to the requested OCS discretionary funds only, and ''Non-Federal'' will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS discretionary funding should be included in ''Non-Federal'' entries.

The budget forms in SF–424A are only to be used to present grant costs and major budget categories. Other internal project cost data must be separate and should appear as part of other project implementation data. Applicants are reminded that grant funds may not be utilized for administrative expenses.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and Non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF–424A format should be used as necessary.

Section A—Budget Summary

Lines 1–4, Col. (a): Line 1 Enter ''CSBG Discretionary''; Col. (b): Line 1 Enter ''93.570''; Col. (c): and (d); Applicants should leave columns (c) and (d) blank.

Cols. (e)–(g): For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project for the budget period.

Line 5, Enter the figures from Line 1 for all columns completed as required, (c), (d), (e), (f), and (g).

Section B—Budget Categories

Allowability of costs are governed by applicable cost principles set forth in 45 CFR Part 74.

Columns (1) and (5): In OCS applications, it is only necessary to complete Columns (1) and (5). Column 1: Enter the total requirements for OCS Federal funds by the Object Class Categories of this section:

Personnel—Line 6A: Enter the total costs of salaries and wages of applicant/grantee staff only. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total costs of all travel by employees of the project. Do not enter costs for consultant's travel. Provide justification for requested travel costs.

Equipment—Line 6d: Enter the total costs of all non-expendable personal property to be acquired by the project. ''Non-expendable personal property'' means tangible property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence. (See Line 21 for additional requirements).

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) to be financed by the applicant.

Other—Line 6h: Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (non-contractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training services costs including wage payments to individuals and supportive services payments, and staff development costs.

Total Direct Charges—Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges—Lines 6j: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another Federal agency or is awaiting such approval.

Applicants should enclose a copy of the current rate agreement.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately, upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Totals—Line 6k: Enter the total amounts of Lines 6i and 6j. The total amount should be shown in Section B, Column 1: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project. ''Non-Federal'' resources mean other than OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act Program, should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution.

Line 8: Column (a): Enter the project title. Column (b): Enter the amount of contributions to be made by the applicant to the project. Column (c): Enter the State contribution. Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources. Column (e): Enter the total of columns (b), (c), and (d).

Line 9, 10, and 11 should be left blank.

Line 12: Carry the total of each column of lines 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasting Cash Needs

Line 13: Enter the amount of Federal (OCS) cash needed for this grant by quarter.

Section F—Other Budget Information

Line 21: Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to

facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

1. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

2. Any foreign travel;

3. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds and which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in the program narrative.

4. Contractual: Major items or groups of smaller items; and

5. Other: Group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Line 22: Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23: Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF–424B ''Assurances—Non-Construction''

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B (Attachment D) with their applications.

4. Restrictions on Lobbying Activities

Certification for Contracts, Grants, Loans, and Cooperative Agreements: Fill out, sign and date form found at Attachment H.

5. Disclosure of Lobbying Activities, SF–LLL

Fill out, sign and date form found at Attachment H, if applicable.

6. Project Narrative

The project narrative must address the specific concerns and requirements mentioned under Parts C and D of this Announcement. After confirmation of eligibility (as required by Part B), the narrative should follow the order and respond to the content of the criteria detailed under Part D.

Part G—Application Procedures

1. Availability of Forms

Application for awards under this OCS program must be submitted on Standard Forms (SF) 424, 424A, and 424B. Part F and Attachments B, C, and D to this Program Announcement contain all the instructions and forms required for submitting of applications. The forms may be reproduced for use in submitting applications. Copies of the Federal Register containing this Announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources they may be obtained by writing or telephoning the office listed in the section entitled **CONTACT** at the beginning of this Announcement.

2. Application Submission

The date by which applications must be received is indicated under **CLOSING DATE** at the beginning of this announcement.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447, Attention: Application for National Youth Sports Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grant, ACF Mailroom, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of Date or Time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

Paperwork Reduction Act of 1980: Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and recordkeeping requirements in regulations, including Program Announcements. This Program Announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0348–0040.

3. Intergovernmental Review

Executive Order 12372—Notification Process: This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contacts (SPOCs). Applicants from these twenty jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are

also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(1)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 6th Floor, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G of this Announcement.

4. Application Consideration

Applications which meet the screening requirements in Section 5 below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this Announcement. Applications will be reviewed by persons outside of the OCS unit which would be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will generally be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants. OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applications

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this Announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

a. Initial Screening

(1) The application must contain a completed Standard Form SF–424 signed by an official of the entity applying for the grant who has authority to obligate the organization legally;

(2) a budget (SF–424A); and

(3) ''Assurances'' (SF–424B) signed by the appropriate official.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers for analytical comment and scoring based on the criteria detailed in the section below and the specific requirements contained in Part C of this Announcement. Prior to the programmatic review, these reviewers and/or OCS staff will verify that the applications comply with this Program Announcement in the following areas:

(1) Eligibility: Applicant meets the eligibility requirements found in Part A2.

(2) Target Populations: The application clearly targets the specific outcomes and benefits of the project to low-income participants as defined in the DHHS Poverty Income Guidelines (Attachment A).

(3) Grant Amount: The amount of funds requested does not exceed the estimated amount of $12 million.

(4) Program Focus: The application addresses the geographic scope and project requirements described in Part C of this Announcement.

c. Evaluation Criteria

Applications which pass the initial screening and pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and major weaknesses under each applicable criterion published in this Announcement.

Part H—Post-Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds for use in the project period, the budget period for which support is provided, and the terms and conditions of the award.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grant, the grantee will be subject to the provisions of 45 CFR Part 74 along with OMB Circulars Â–122, A–133, and, for institutions of higher education, A–21.

Grantee will be required to submit progress and financial reports (SF–269).

Grantee is subject to the audit requirements in 45 CFR Part 74.

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their applications.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Copies of the certifications and assurances are located at the end of this Announcement.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying when an applicant has engaged in lobbying activities or is expected to lobby in trying to obtain the grant. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of nonappropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the nonappropriated funds and (3) to file quarterly updates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

Attachment I indicates the regulations which apply to all applicants/grantees under the Discretionary Grants Program.

Dated: February 28, 1996.

Donald Sykes,

Director, Office of Community Services.

ATTACHMENT A

Size of family unit	Proverty guideline
1995 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA	
1	$ 7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390
For family units with more than 8 members, add $2,560 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)	
POVERTY INCOME GUIDELINES FOR ALAKSA	
1	$ 9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740
For family units with more than 8 members, add $3,200 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in figures above.)	
POVERTY GUIDELINES FOR HAWAII	
1	$ 8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190
For family units with more than 8 members, add a $2,940 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)	

BILLING CODE 4184–01–M

Attachment B

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐.☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. it will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representatives of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

Attachment C

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184-01-C

Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Section A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)—For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title one each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)—For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amounts(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Column (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shone in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. if in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts of Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section annotate accordingly and how the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

BILLING CODE 4184–01–M

Attachment E

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184–01–C

Attachment F

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—OMB State Single Point of Contact Listing*

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, AL 36103–5690, Telephone: (205) 242–5483, FAX: (205) 242–5515

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid III, Administrator, Georgia State Clearinghouse, 254 Washington Street, SW.,—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Barbara Beard, State Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone: (217) 782–1671, FAX: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Jersey

Gregory W. Adkins, Assistant Commissioner, New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to: Andrew J. Jaskolka, State Review Process, Intergovernmental Review Unit CN 800, Room 813A, Trenton, New Jersey 08625–

0800, Telephone: (609) 292–9025, FAX: (609) 633–2132.

New Mexico

Robert Peters, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0385

Texas

Tom Adams, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, FAX: (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, FAX: (307) 638–8967

TERRITORIES

Guam

Mr. Giovanni T. Sgambelluri,
Director,
Bureau of Budget and Management Research,
Office of the Governor,
P.O. Box 2950,
Agana, Guam 96910,
Telephone: 011–671–472–2285
FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro,
Chairwoman/Director,
Puerto Rico Planning Board,
Federal Proposals Review Office,
Minillas Government Center,
P.O. Box 41119,
San Juan, Puerto Rico 00940–1119,
Telephone: (809) 727–4444, (809) 723–6190, FAX: (809) 724–3270, (809) 724–3103

North Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Virgin Islands

Jose George
Director, Office of Management and Budget,
#41 Norregade Emancipation Garden, Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069.

Attachment H—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____
Signature

_____
Title

_____
Organization

_____
Date

BILLING CODE 4184–01–M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184–01–C

Attachment I

The following DHHS regulations apply to all applicants/grantees under the National Youth Sports Program:

Title 45 of the *Code of Federal Regulations:*

Part 16—Procedures of the Departmental Grant Appeals Board

Part 74—Administration of Grants (non-governmental)

Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):

Sections

74.62(a) Non-Federal Audits

74.173 Hospitals

74.174(b) Other Nonprofit Organizations

74.304 Final Decisions in Disputes

74.710 Real Property, Equipment and Supplies

74.715 General Program Income

Part 75—Informal Grant Appeals Procedures

Part 76—Debarment and Suspension form Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964

Part 81—Practice and Procedures for Hearings Under Part 80 of this Title

Part 84—Non-discrimination on the Basis of Handicap in Programs

Part 86—aNondiscrimination on the basis of sex in the admission of individuals to training programs

Part 91—Non-discrimination on the basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance

Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)

Part 93—New Restrictions on Lobbying

Part 100—Intergovernmebntal Review of Department of Health and Human Services Programs and Activities

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

[FR Doc. 96–5148 Filed 3–5–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 95N–0288]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish a notice in the Federal Register concerning each collection of information and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to the approval and labeling of color additives.

DATES: Submit written comments on the information collection requirements by May 6, 1996.

ADDRESSES: Submit written comments on the information collection requirements to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–443–4055.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c). To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Sections 70.25 *Labeling requirements for color additives (other than hair dyes)* (21 CFR 70.25) and 71.1 *Petitions* (21 CFR 71.1) (OMB Control Number 0910–0185—Extension)

Section 721(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e) provides that a color additive shall be deemed to be unsafe unless the additive and its use are in conformity with a regulation that describes the condition(s) under which the additive may safely be used, or unless the additive and its use conform to the terms of an exemption for investigational use issued under section 721(f) of the act. Color additive petitions are submitted by individuals or companies to obtain approval of a new color additive or a change in the conditions of use permitted for a color additive that is approved already. Section 71.1 specifies the information that a petitioner must submit in order to establish the safety of a color additive and to secure the issuance of a regulation permitting its use.

FDA scientific personnel review color additive petitions to ensure that the intended use of the color additive in or on food, drugs, cosmetics, and medical devices is suitable and safe. Color additive petitions were specifically provided for by Congress when it enacted the Color Additive Amendments of 1960 (Pub. L. 94–295). If FDA stopped accepting color additive petitions or stopped requiring them to contain the information specified in § 71.1, the number of new color additives approved would decrease.

FDA's color additive labeling requirements in § 70.25 require that color additives that are to be used in foods, drugs, devices, or cosmetics be

labeled with sufficient information to ensure their safe use.

FDA estimates the burden of complying with the information collection provisions of the agency's color additive regulations as follows:

Estimated Annual Reporting Burden

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours Per Response	Total Hours	Total Operating & Maintenance Costs
70.25	2	1	2			
71.1	2	1	2	1,700	3,415	$6,000
Total	2				3,415	$6,000

There are no capital costs associated with this collection.

This estimate is based on the number of new color additive petitions received in 1994. Although the burden varies with the type of petition submitted, a color additive petition involves analytical work and appropriate toxicology studies, as well as the work of drafting the petition itself. Because labeling requirements under § 70.25 for a particular color additive involve information required as part of the color additive petition safety review process, the estimate for the number of respondents is the same for § 70.25 as for § 71.1, and the burden hours for labeling are included in the estimate for § 71.1.

Dated: February 27, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5212 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96D–0067]

Guidance for Industry, Designing Clinical Programs for Developing Human Drugs, Medical Devices, or Biological Products Intended for the Treatment of Rheumatoid Arthritis; Availability of Draft Guidance; Notice of Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled ''Draft Guidance for Industry in Designing Clinical Programs for Developing Human Drugs, Medical Devices, or Biological Products Intended for the Treatment of Rheumatoid Arthritis.'' The agency is also announcing a public workshop to discuss the draft guidance document. The draft guidance document was prepared by the Rheumatology Working Group comprised of members from: The Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Devices and Radiological Health. The workshop will enable experts in rheumatology clinical trials and interested representatives of industry, academia, and the public to exchange ideas on developing and assessing new treatment modalities for rheumatoid arthritis (RA) and to discuss the types of claims that might be reasonably pursued and the data necessary to support such claims.

DATES: The public workshop will be held Wednesday, March 27, 1996, from 8 a.m. to 6 p.m. There is no registration fee for the workshop, but advance registration is requested. Interested parties are encouraged to register early because space is limited. Written comments on the draft guidance for consideration at the workshop should be submitted by March 22, 1996. The administrative docket will remain open until May 30, 1996, for the submission of written comments, data, information, or views on the draft guidance or the workshop.

ADDRESSES: The public workshop will be held at the DoubleTree Hotel, 1750 Rockville Pike, Plaza 1 and 2, Rockville, MD 20852. Persons interested in attending should Fax their registration to Rose Cunningham at 301–594–5493. The Fax should include the participant's name and title; organization name, if any; address; and telephone number.

A copy of the draft guidance document entitled ''Draft Guidance for Industry in Designing Clinical Programs for Developing Human Drugs, Medical Devices, or Biological Products Intended for the Treatment of Rheumatoid Arthritis'' is available through the Center for Drug Evaluation and Research's Fax-on-Demand, 301–827–0577 or 800–342–2722, under the index ''Guidance to industry,'' document no. 0806. The draft guidance is also available via Internet by connecting to the CDER file transfer protocol server (CDVS2.CDER.FDA.GOV). A transcript of the workshop will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, approximately 10 business days after the workshop at a cost of 10¢ per page.

Written comments on the draft guidance or the workshop should be submitted to the Dockets Management Branch (HFA–305), 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rose Cunningham, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5470.

SUPPLEMENTARY INFORMATION: A variety of new treatment modalities are being developed for RA, and many of these are anticipated to have beneficial effects that are different from traditional agents. However, uncertainty exists among experts in rheumatology clinical trials about the types of claims that might be reasonably pursued for these agents and what data would be necessary to support such claims. In addition, there is a need to identify appropriate outcome measures for RA, including composite indices, quality of life measures, and radiographic techniques. Parallel developments of treatment modalities for RA in the human drug, biological, and medical device communities have provided further impetus to the creation of this draft guidance document.

FDA, through its Rheumatology Working Group, has developed a draft guidance document for industry that provides an overview of the kinds of design problems that are encountered in RA trials intended for product

development, and offers a variety of suggested approaches that may be considered for improving the reliability, robustness, and clinical relevance of such trials. FDA is sponsoring a public workshop to provide an opportunity for experts in rheumatology clinical trials and interested representatives of industry, academia, and the public to discuss the working draft of the guidance document and to exchange ideas on developing and assessing new treatment modalities for RA as well as the types of claims that might be reasonably pursued and the data necessary to support such claims.

After consideration of all data, information, or views submitted on the draft guidance and at the workshop, FDA will issue a final guidance document and announce its availability with a notice published in the Federal Register.

Dated: February 29, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–5211 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Ryan White Title IV Grants for Coordinated HIV Services and Access to Research for Children, Youth, Women, and Families

AGENCY: Health Resources and Services Administration (HRSA), PHS.

ACTION: Notice of availability of funds.

SUMMARY: The HRSA announces that applications will be accepted for fiscal year (FY) 1996 funds for grants for projects that enhance access to clinical research trials and other research, and develop and support the provision of coordinated comprehensive services and activities for children, youth, women and families infected/affected by the Human Immunodeficiency Virus (HIV). Projects will be funded to implement programs of family-centered, community-based coordinated care and research for children, youth, women, and families infected/affected by HIV, or those at risk for developing infection. These projects are authorized under, and expected to meet provisions contained within, Section 2671 of the Public Health Service Act [as enacted by Title IV, of the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act of 1990, Public Law 101–381 (42 U.S.C. 300ff–11 *et seq.*)]. Within the HRSA, Ryan White Title IV projects are administered by the Maternal and Child Health Bureau (MCHB).

This program announcement is subject to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for the EMSC program, the amount of available funding for this specific grant program cannot be estimated. In addition, reauthorization of the Ryan White CARE Act, currently pending in Congress, could add new Title IV grant requirements in addition to those included in this notice.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS national activity for setting priority areas. Title IV directly addresses the Healthy People 2000 objectives related to the priority area of HIV infection. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock Number 017–001–0474–0) or *Healthy People 2000* (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202 783–3238).

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases any portion of a facility) in which regular routine education, library, day care, child care or early development services are provided to children.

ADDRESSES: Grant applications for the Ryan White Title IV Program (PHS form #5161–1, approved under OMB #0937–0189) must be obtained from and submitted to: Mona D. Thompson, Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, HRSA, Room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3429. You must obtain application materials in the mail.

Federal Register notices and application guidance for MCHB programs are available on the World Wide Web via the Internet at address: http://www.os.dhhs.gov/hrsa/mchb. Click on the file name you want to download to your computer. It will be saved as a self-extracting (Macintosh or) Wordperfect 5.1 file. To decompress the file once it is downloaded, type in the file name followed by a <return>. The file will expand to a Wordperfect 5.1 file. If you have difficulty accessing the MCHB Home Page via the Internet and need technical assistance, please contact Linda L. Schneider at 301–443–0767 or ''lschneider@hrsa.ssw.dhhs.gov''.

DATES: The application deadline date is April 19, 1996. Competing applications will be considered to be on time if they are:

(1) Received on or before the deadline date, or

(2) Postmarked on or before deadline date and received in time for orderly processing.

As proof of timely mailing, applicants should obtain a legibly dated receipt from the commercial carrier or the U.S. Postal Service; private metered postmarks will not be accepted as proof of timely mailing.

Late applications not accepted for processing or those sent to an address other than specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Additional information regarding technical and program issues may be obtained from: the Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–9051. Requests for information concerning business management issues should be directed to: Sandra Perry, Acting Grants Management Officer (GMO), Maternal and Child Health Bureau, at the address specified in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The Pediatric AIDS Program was initiated in 1988. The program grew from 13 projects funded at $4.4 million to a total of 59 projects funded at $25.4 million in FY 1995. Since 1988, the program has evolved from a primary focus on the coordination of services for the management and care of infected children and their families to also address the broader prevention and care needs of youth and women infected/affected by HIV. In FY 1994, Congress funded the Pediatric AIDS Program under section 2671, Title IV of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act 1990, Public Law 101–381 (Title IV). As a result of

authorization under Title IV, the focus of the program was expanded to include the development of innovative models linking clinical trials offered by the National Institutes of Health (NIH) and other research entities, with systems of comprehensive primary/community-based medical and social services.

In 1994 published results from a NIH clinical trial (ACTG 076) demonstrated the potential for reducing perinatal HIV transmission by two-thirds when pregnant women and their newborns were given zidovidine (ZDV). The ZDV therapy regimen has been published in the Centers for Disease Control's Morbidity and Mortality Weekly Report (MMWR 1994:43 (RR–11).

Over the past year, the CDC has issued recommendations for enhanced voluntary HIV counseling and testing for women of child bearing age, and the HRSA issued an *Advisory: The Use of Zidovidine (ZDV) to reduce Perinatal HIV Transmission in HRSA–Funded Programs.* This advisory contains practical, specific steps for implementing U.S. Public Health Services recommendations for offering zidovidine (ZDV) to pregnant women. A copy of this advisory will be mailed to all Title IV applicants with the application guidance. Applicants are expected to review this advisory and describe how they will implement these recommendations in their application.

Reauthorization of the Ryan White CARE Act is pending in Congress. The final version of the Act, which will include Title IV, is expected to contain new requirements concerning arrangements between Title IV programs and research entities and enhancement of opportunities for Title IV Clients to participate in clinical research. Reauthorization of the Ryan White CARE Act could result in incorporation of additional requirements for Title IV grants in the applications guidance for these projects.

Purpose

The purpose of Title IV funding is to link clinical research and other research activities with comprehensive care systems, and to improve and expand the coordination of a system of comprehensive care for children, youth, women, and families who are infected/affected by HIV. Funds will be used to support programs that: (1) cross established systems of care to coordinate service delivery, HIV prevention efforts, and clinical research and other research activities; and (2) address the barriers to comprehensive care and research experienced by children, youth, women, and families infected/affected by HIV.

While children, youth, and women represent the most recently impacted and rapidly growing population groups affected by HIV, they also represent the groups facing the greatest barriers in accessing care and research. These groups are disproportionately members of communities of color with limited economic resources. Given these realities, children, youth, and women affected by HIV are confronted with a complex array of economic and social issues that increase their need for comprehensive services and increase the cost and intensity of care. Existing systems of care are often not prepared to respond to these needs and require targeted resources and interventions in order to develop infrastructures and provider capacities that would allow them to provide quality care to these populations.

Given these unmet needs, activities under these grants should address the following goals:

—Link HIV/AIDS clinical research trials and other research activities with comprehensive systems of care, resulting in increased access for children, youth, women, and their families.

—Foster the development and support of comprehensive care infrastructures, including primary care, that increase access to culturally-competent, family-centered, community-based, coordinated care.

—Emphasize prevention within the comprehensive care system in order to reduce the spread of the HIV infection to vulnerable populations.

Funding Category

Applications which do not fall within this program category will not be considered for funding.

The Ryan White Title IV Program for Children, Youth, Women, and Families develops and supports innovative projects that foster collaboration between clinical research institutions and family-centered, primary/community-based medical and social service programs, and that coordinate systems of comprehensive HIV care for children, youth, women and their families. Projects will focus on local capacity-building, making maximum use of all available public and private resources for reaching and providing health care and supportive services to the target population. Projects should strengthen existing comprehensive care infrastructures by: (1) broadening the coalition of agencies, providers, community organizations and consumers that participate in the identification of needs, services planning, the coordination and delivery of services, and the financing of services for HIV affected populations; and (2) identifying and addressing systemic issues that affect provider collaboration and impact the provision of coordinated high quality comprehensive care.

Preference for funding in this category will be given to projects that have: (1) established and currently support a comprehensive, coordinated, system of HIV care serving either children, youth, women, or families; and (2) linked with, or initiated activities to link with clinical trials or other research. This means that these projects will be funded ahead of new groups of applications in this category.

Special Concerns

Grantees supported by Title IV of the Ryan White CARE Act should coordinate their projects with other Federal, State, and local programs concerned with HIV and/or serving the target population of children, youth, women and families affected by or at risk for HIV, particularly: Title V Maternal ad Child Health programs; Ryan White Titles I, II and III(b) programs; providers funded by the Substance Abuse and Mental Health Services Administration; the Health Resources and Services Administration; the Centers for Disease Control prevention efforts; and clinical trials funded by NIH or other sources.

HRSA's Maternal and Child Health Bureau places special emphasis on improving service delivery to women, children and youth from communities with limited access to comprehensive care. In order to assure access and cultural competence, it is expected that projects will involve individuals from the populations to be served in the planning and implementation of the project. The Bureau's intent is to ensure that project interventions are responsive to the cultural and linguistic needs of special populations, that services are accessible to consumers, and that the broadest possible representation of culturally distinct and historically underrepresented groups is supported through programs and projects sponsored by the MCHB.

In keeping with the goals of advancing the development of human potential, strengthening the Nation's capacity to provide high quality education by broadening participation in MCHB programs of institutions that may have perspectives uniquely reflecting the Nation's cultural and linguistic diversity, and increasing opportunities for all Americans to participate in and benefit from Federal public health programs, HRSA will place a funding priority on projects from

Historically Black Colleges and Universities (HBCU) or Hispanic Serving Institutions (HSI) in all categories and subcategories in this notice for which applications from academic institutions are encouraged. This is in conformity with the Federal Government's policies in support of White House Initiatives on Historically Black Colleges and Universities (Executive Order 12876) and Educational Excellence for Hispanic Americans (Executive Order 12900). An approved proposal from a HBCU or HSI will receive a 0.5 point favorable adjustment of the priority score in a 4 point range before funding decisions are made.

Applications will be reviewed with particular attention to inclusion of women and persons from culturally distinct populations. Funding will be provided to those which, in the Department's view, best meet the statutory purposes of the Ryan White Title IV Program and address achievement of the Health People 2000 objectives related to HIV infection.

Review Criteria

Applications for grant categories will be reviewed and rated by objective review panels according to the following weighted criteria:

1. Documentation of the HIV medical and social support service needs of children, youth, women and families. Weight: 15 percent.

2. Demonstration of capacity to coordinate and support a comprehensive system of HIV care for children, youth, women and families. Weight: 25 percent.

3. Demonstrated capacity to provide clinical trials or to establish linkages with providers offering clinical trials, or other research.
Weight: 15 percent.

4. The degree to which the Title IV's program priority of consumer involvement has been implemented. Weight: 10 percent.

5. The degree to which the proposed plan:

- Addresses the issues identified in response to Review Criteria I;
- Reflects the legislative and programmatic priorities of the Title IV program (access to clinical trials, reduction of perinatal HIV transmission, and consumer involvement);
- Contains goals and objectives that are clear, measurable, and time framed; and
- Presents an evaluation strategy capable of documenting the achievement of project goals. Weight: 25 percent.

6. The degree to which the proposed budget clearly supports administrative and programmatic activities necessary to manage the program and accomplish proposed goals and activities. Weight: 10 percent.

Eligible Applicants

Grants may be awarded to public or nonprofit private entities that provide or arrange for primary health care. Eligible entities may include, but are not limited to, State or local health departments, university medical centers, public or nonprofit private hospitals, community health centers (as defined in section 330(a) of the Act), hemophilia treatment centers, drug abuse treatment agencies, tribal health programs, school based clinics and institutions of higher education.

If any additional eligibility requirements are established in a reauthorized Ryan White CARE Act, they will be clearly identified in the application guidance.

Allowable Costs

The HRSA may support reasonable and necessary costs of HIV Project grants within the scope of approved projects. Allowable costs may include salaries, equipment and supplies, travel, contractual arrangements, consultants, and others, as well as indirect costs. The HRSA adheres to administrative standards reflected in the *Code of Federal Regulations* (45 CFR Part 92 and 45 CFR Part 74). All other sources of funding to support this project must be accurately reflected in the applicant's budget.

Reporting Requirements

A successful applicant under this notice will submit reports in accordance with the provisions of the general regulations which apply under 45 CFR Part 74, Subpart J, Monitoring and Reporting of Program Performance, with the exception of State and local governments to which 45 CFR Part 92.40 will apply. Financial reporting will be required in accordance with 45 CFR Part 74, Subpart I, with the exception of State and local governments, to which 45 CFR Subpart C will apply.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 5161).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

The project abstract may be used in lieu of the one-page PHSIS, if the applicant is required to submit a PHSIS.

Executive Order 12372

The Title IV Program has been determined to be subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR part 100.

Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice (Form PHS 5161–1 with revised face sheet HHS Form 424 and with Program Narrative and Checklist approved under OMB 0937–0189) will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part

100 for a description of the review process and requirements.)

(The OMB Catalog of Federal Domestic Assistance number for the HIV Program for Children, Youth, Women, and Families is 93.153)

Dated: February 29, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–5209 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of a 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 National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: Development of Deuterated Nitroso Spin Traps for Identifying Xenobiotic Free Radical Metabolites (SBIR Phase I Topic 45) & Synthesis of New Nitrones in Spin Traps (Phase II Topic 38) (Telephone Conference Call).

Date: March 11, 1996.

Time: 10:30 A.M.

Place: National Institute of Environmental Health Sciences North Campus, Building 17, Conference Room 1713 Research Triangle Park, NC.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446.

Purpose/Agenda: To review and evaluate contract proposals.

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 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.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health.)

Dated: March 1, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–5314 Filed 3–1–96; 4:33 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. FR–3917–N–49]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: May 6, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: John Carson, Research Analyst, Office of Policy Development and Research—telephone (202) 708–3700 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and, (4) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology (e.g. permitting electronic submission of responses).

This notice also lists the following information:

Title of Proposal: Survey of Vouchered-out Households.

Description of the need for the information and proposed use: Currently, HUD's Office of Property Disposition is in the process of disposing, through demolition, several privately-owned multifamily assisted properties which have been acquired by the Department as a result of foreclosure or deteriorating safety and social conditions. Prior to disposing of these properties, eligible resident households are provided with Section 8 housing vouchers to obtain alternative housing. In order to gain insight into the transformation of project-based programs to tenant-based assistance, the Department proposes to study several of these vouchered-out projects. Specifically, the Department is interested in learning more about housing and neighborhood outcomes for renter households who receive a voucher to leave multifamily assisted housing for residence in unassisted housing. The results of this study will have a direct bearing on the Department's policies for re-locating households from distressed assisted housing.

Members of affected public: 200 households who received a voucher to leave assisted housing will be interviewed concerning their experiences in obtaining alternative housing with a voucher.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information will be collected through one-time telephone interviews with 200 members of households who moved from assisted housing to private housing with a voucher. These interviews will last an average of .417 hours (25 minutes) for a total respondent burden of 83.4 hours (200 X .417).

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.c. Chapter 35, as amended.

Dated: February 27, 1996.

Michael A. Stegman,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 96–5194 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–62–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–3917–N–50]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 6, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Description of Materials.

OMB Control Number: 2502–0192.

Description of the need for the information and the proposed use: HUD–92005 is needed so that builders and sponsors can describe the materials and assembly of dwellings and other improvements to property. This form and the drawings define the scope and limits of the construction and is used by HUD to estimate value for FHA Mortgage Insurance.

Agency form numbers: HUD–92005.

Members of affected public: Builders and sponsors.

An estimation of the total numbers of hours needed to prepare the information collection is 50,000, number of respondents is 100,000, frequency response is dependent upon the occurrence of the application process, and the hour of response is 0.05 of an hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 26, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing Federal Housing Commissioner.

[FR Doc. 96–5195 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3917–N–51]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 6, 1996.

ADDRESSES: Interested persons are invited to submit comment regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Notice also lists the following information:

Title of Proposal: Construction Complaint for Newly Constructed Property.

OMB Control Number: 2502–0047.

Description of the need for the information and proposed use: A homebuyer who has purchased a newly constructed property must complete the form to identify items of their construction complaint, to identify builders not conforming to applicable standards and to request financial assistance for a structural.

Agency form numbers: HUD–92556.

Members of affected public: Individuals or households.

An estimation of the total numbers of hours needed to prepare the information collection is 2,300, the number of respondents is 4,600 frequency of response is on occasion, and the hour of response is 0.5.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 26, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–5196 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–46]

Office of the Assistant Secretary for Administration; Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* May 6, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gloria S. Diggs, Reports Liaison Officer, Office of Administration, Department of Housing & Urban Development, 451–7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Larry S. DeWalt, 202–708–0294 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of proposal: Solicitation Mailing List Application.

OMB Control Number, if applicable: 2535–0086.

Description of the need for the information and proposed use: This information will be used by potential sources to indicate their particular field(s) of expertise or interest. HUD will use this information to target the types of solicitations that organizations receive as a result of being placed on the Solicitation Mailing List.

Agency form numbers, if applicable: HUD–24010 and SF–129.

Members of affected public: Business or Other For-Profit, Individuals or Households, Not-For-Profit Institutions, and State, Local, or Tribal Government

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 1,200 respondents × 1 time per year × 5 minutes per respondent = 1,200 burden hours.

Status of the proposed information collection: Extension, no change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 21, 1996.

David S. Cristy,

Acting Director, Information Resource Management Policy and Management Division.

[FR Doc. 96–5198 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3917–N–47]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: April 5, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 26, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Supportive Housing Program Renewal Application.

Office: Community Planning and Development.

OMB Approval Number: 2506–0134.

Description of the Need for the Information and Its Proposed Use:

State and local governments, nonprofit organizations, and Indian Tribes are required to submit proposals for reapplication for continued participation in the Supportive Housing Program. This program provides grants to stimulate community-wide efforts to assist homeless families and individuals.

Form Number: HUD–40109.

Respondents: Not-For-Profit Institutions and State, Local, or Tribal Government.

Frequency of Submission: Annually and On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	215		1		20		4,300

Total Estimated Burden Hours: 4,300.

Status: Reinstatement with change.

Contact: Maggie Taylor, HUD, (202) 708–4300, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: February 26, 1996.

[FR Doc. 96–5197 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3917–N–48]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* April 5, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 26, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Assessing Service Quality: Section 203(k) Loan Program.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and Its Proposed Use: This information collection will survey actual and potential customers of the Federal Housing Administration (FHA) Section 203(k) Rehabilitation Loan Program. The survey will assist FHA in expanding the use of Section 203(k) loans. These loans provide an important vehicle for community revitalization and for expanding homeownership opportunities.

Form Number: None.

Respondents: Business or Other For-Profit and Not-For-Profit Institutions.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	800		1		.25		200

Total Estimated Burden Hours: 200.

Status: New.

Contact: David Chase, HUD, (202) 708–4504 x111, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: February 26, 1996.

[FR Doc. 96–5199 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit [4310–55]

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–811599

Applicant: Steven John Camp, Keller, TX.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) from Zimbabwe for the purpose of enhancement of the survival of the species.

PRT–811771

Applicant: Jesse T. Kirk, Irving, TX.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) from Namibia for the purpose of enhancement of the survival of the species.

Applicant: George Washington University, Washington, DC, PRT–811643

The applicant requests a permit to import haitian and tissue samples from captive-held, captive-born, and wild-caught solenodon (*Solenodon paradoxus*) in the Dominican Republic for the purpose of scientific research to enhance the survival of the species.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–811418

Applicant: Zoological Society of San Diego, San Diego, CA.

Type of Permit: Import for public Display.

Name and Number of Animals: Polar Bear (*Ursus maritimus*), 2.

Summary of Activity to be Authorized: The applicant has requested a permit to import 0.2 polar bears from Jungle Cat World, Orono, Ontario, Canada for the purposes of public display.

Source of Marine Mammals for Research/Public Display: Canada; originally recovered as orphaned cubs approximately 10 month old.

Period of Activity: Up to five years from issuance of a permit, if issued.

Concurrent with the publication of this notice in the Federal Register, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 420(c), Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: March 1, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–5239 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Indian Affairs

Operation and Maintenance Rate Adjustment: Wapato Irrigation Project, Washington

ACTION: Notice of operation and maintenance rate increase.

SUMMARY: The Bureau of Indian Affairs is changing the assessment rates for operating and maintaining the Wapato Irrigation Project for 1996 and subsequent years. The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance means the expenses we incur to provide direct support or benefit to the project's activities for administration, operation, maintenance, and rehabilitation. We must include at least:

(a) Personnel salary and benefits for the project engineer/manager and our employees under his management control,

(b) Materials and supplies, © Major and minor vehicle and equipment repairs,

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement,

(e) Capitalization expenses,

(f) Acquisition expenses, and

(g) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Portland Area Office, 911 NE 11th Avenue, Portland, Oregon 97232–4169, telephone (503) 231–6702.

DATE: This rate is effective for the 1996 irrigation season and all subsequent years until modified.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Assistant Secretary of Indian Affairs by 5 U.S.C. 301 and the Act of August 15, 1914 (38 Stat. 583, 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8. 1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

This notice is given in accordance with Section 171.1(e) of part 171, Subchapter H, Chapter 1, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Wapato Irrigation Project for Calendar Year 1996 and subsequent years.

The purpose of this notice is to announce an increase in the Wapato Project assessment rates proportionate with actual operation and maintenance costs. The assessment rates for 1996 will amount to an increase of 11% for the Wapato Satus Unit A Lands and 21% for B lands due to increased storage charges and an 11% increase for the Toppenish-Simcoe & Ahtanum Units.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1996 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report $15.00
(2) Requests for Verification of Account Delinquency Status, Per Report.....$10.00
(3) Requests for Splitting of Operation and Maintenance Bills (In addition to minimum billing fee)
Per Bill.....$10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee)
Per Bill.....$10.00
(5) Requests for Other Special Services Similar to the above, when appropriate,
Per Report.....$10.00
(6) Requests for elimination of lands from the Project. In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County Recording Fee $10.00
(7) Review of subdivision plats $10.00

Ahtanum Unit

Charges

(A) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1996 and subsequent years until further notice, is fixed at $10.00 per acre per annum for land to which water can be delivered from the project works.

(B) In addition to the foregoing charges there shall be collected a billing charge of $5.00 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5.00. A one acre charge shall be levied on all tracts of less than one acre.

Toppenish-Simcoe Unit

Charges

(A) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1996 and subsequent years until further notice, is fixed at $10.00 per acre per annum for land for which an application for water is approved by the Project Engineer.

(B) In addition to the foregoing charges there shall be collected a billing charge of $5.00 for each tract of land for which operation and maintenance bills are prepared. The bills issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5.00. A one acre charge shall be levied on all tracts of less than one acre.

Wapato-Satus Unit

Charges

(A) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1996 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts.....$40.00
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands $40.00
(3) Rate per assessable acre for all lands with a storage water rights, known as .b. lands, in addition to other charges per acre.....$8.00
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands $44.00
(5) Basic rate for each assessable acre of Water Rental Agreement Lands $49.00

(B) In addition to the foregoing charges there shall be collected a billing charge of $5.00 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5.00. A one acre charge shall be levied against all tracts of less than one acre.

Payments

The water charge becomes due on April 1 of each year and are payable on or before that date. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where required by law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, Title 4, Part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures.

The Notice proposing this increase to the Wapato Irrigation Project's operation and maintenance assessment rate was published on December 21, 1995 (60 FR 66315). A 30-day comment period was allowed. The Bureau received 23 comments. All, except one comment, came from the Yakima Reservation Irrigation District and its members or the tribe. The Bureau held a meeting with the Irrigation District and the tribe on February 13, 1996. All issues were fully discussed and the need for the increase explained to every one. The one comment from a congressional representative was answered directly by the Portland Area office.

Dated: February 28, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–5130 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[AZ-020–7122–00–5499; AZA 28639]

Notice of Availability of the Record of Decision for the Final Environmental Impact Statement (FEIS), Proposed Tailings and Waste Rock Disposal Areas, Cyprus Bagdad Copper Corporation, Bagdad, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability, record of decision for Final Environmental Impact Statement (FEIS).

SUMMARY: The Bureau of Land Management, Phoenix District, in response to a Mining Plan of Operations (MPO) filed by Cyprus Bagdad Copper Corporation (CBCC), has prepared an Environmental Impact Statement (EIS) in compliance with the Federal Land Policy and Management Act of 1976, as amended, 43 CFR 3809, and Section 102(2)(c) of the National Environmental Policy Act of 1969. The proposed action involves development of a new tailings impoundment, expansion of an existing waste rock disposal area, and continuation of expansion of the existing open pit in order to continue copper mining and milling operations in Bagdad, Arizona for 35 years. The BLM has approved the Mining Plan of Operations as described in the proposed action. The Record of Decision is now available to the public.

ADDRESSES/FOR FURTHER INFORMATION, CONTACT: Copies of the Record of Decision may be requested from: Mary Johnson, Project Manager, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, AZ 85027, or telephone (602) 780–8090, ext. 564.

DATES: The publication of this notice in the Federal Register constitutes public notice of the decision. The decision may be appealed on or before April 5, 1996 by any person adversely affected by the decision, to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Information on filing appeals may be obtained from the Project Manager listed above.

Dated: February 28, 1996.

David J. Miller,

Associate District Manager.

[FR Doc. 96–5065 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–32–P

[UT–040–06–1430–01; UTU–71138, UTU–71175]

Realty Actions; Sales, Leases, Etc.; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability and Notice of Realty Action.

SUMMARY: Notice is hereby given that an environmental assessment and proposed plan amendment for the Cedar, Beaver, Garfield, Antimony Resource Management Plan have been completed. Pursuant to the environmental assessments and proposed plan amendments, 87.5 acres of public land have been found suitable for sale, under the authority of the provisions of the Recreation and Public Purposes Act of 1926, as amended. Iron County would purchase 7.5 acres located at Salt Lake Meridian, T. 36 S., R. 15 W., sec. 20, NW¼NE¼NE¼SW¼, N½NW¼NE¼ SW¼, Iron County, Utah and Beaver County would purchase 80 acres located at Salt Lake Meridian, T.29S., R., 7 W., sec. 8, NW¼NE¼, SE¼NW¼, Beaver County, Utah. The land will not be offered for sale until at least 60 days after the date of this notice and is contingent upon the signing of a decision record approving the proposed amendment.

DATES: The proposed plan amendment may be protested. The protest period will commence with the date of publication of this notice. Protests must be submitted on or before April 5, 1996. Also, for a period of 45 days from March 6, 1996, interested parties may submit comments on the proposed land sale to the District Manager, Cedar City District, at the address below.

ADDRESSES: Protests to the proposed plan amendment should be addressed to the Director, Bureau of Land Management (480), Resource Planning Team, 1849 C Street NW., Washington, DC 20240, within 30 days after the date of publication of this Notice for the proposed planning amendments. All comments concerning this proposed sale should be addressed to A.J. Meredith, District Manager, Cedar City District, 176 East DL Sargent Drive, Cedar City, UT 84720.

FOR FURTHER INFORMATION CONTACT: Arthur L. Tait at 176 East DL Sargent Drive, Cedar City, UT 84720, telephone (801) 865–3080.

SUPPLEMENTARY INFORMATION: The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from March 6, 1996, whichever occurs first. Only the surface estate will be sold. The patents, when issued, will contain certain reservations to the United States and will be subject to existing rights-of-way. Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the Cedar City District Office at the address listed above. Any person who participated in the planning process and has an interest which is or may be adversely affected by these proposed amendments may protest to the Director of the Bureau of Land Management. The protest must be in writing and filed within 30 days of the date of publication of this Notice of Availability in the Federal Register. The protest shall contain the name, mailing address, telephone number and interest of the person filing the protest; a statement of the issue or issues being protested; a statement of the part of the amendment (s) being protested; a copy of all documents addressing the issue or issues that were submitted during the planning process and a concise statement explaining why the State Director's proposed decision is believed to be wrong. In the absence of timely objections, these proposals shall become the final determination of the Department of the Interior.

Douglas M. Koza,

Acting State Director.

[FR Doc. 96–5202 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–DQ–P

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., February 27, 1996.

The plat representing the dependent resurvey of a portion of the subdivision and the survey of lot 7, in section 9, and correcting certain information as shown on the plat accepted and in the field notes approved November 15, 1993, T. 14 S., R. 32 E., Boise Meridian, Idaho, Group No. 930, was accepted, February 27, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706–2500.

Dated: February 27, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–5134 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Notice of Inventory Completion for Human Remains and Funerary Objects in the Possession of Everglades National Park, Homestead, FL

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003(d), of the completion of an inventory of human remains and funerary objects in the possession of the Everglades National Park, Homestead, FL.

A detailed assessment and inventory of the human remains and associated objects has been made by National Park Service professional staff in consultation with the Miccosukee Tribe of Indians of Florida.

In 1982, as part of an authorized survey, a single tooth was found at a site located on a hammock island in Shark River Slough. Archeological and ethnographic information indicates that the island was occupied by members of the Miccosukee tribe in the early 20th Century. The tooth is believed to have been extracted and disposed of in a traditional manner by the Miccosukee man who lived at the site. The identity of the individual has not been determined.

A site located on another hammock island located in the vicinity of Broad River was also excavated during the 1982 project. Human remains were observed at the site and efforts were made to avoid disturbing them. However, during the course of the fieldwork, one tooth representing one individual was collected. No known individual was identified. The 41 objects found in association with the remain include: medicine and wine bottles, a glass pitcher, an earthenware jug, a creamware saucer, a padlock, a coral pendant, and several marine shells (Busycon and mercenaria). Museum records indicate that a carbide lamp and a brass signal lamp were also collected at the site but can not be located. Archeological and ethnographic information indicates that the Mosquito Island Site was a Miccosukee campsite during the mid-20th Century.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the National Park Service have determined that the 41 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Further, officials of the National Park Service have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the human remains and funerary object and the Miccosukee Tribe of Indians of Florida.

This notice has been sent to officials of the Miccosukee Tribe of Indians of Florida. Representatives of any other Indian tribe which believes itself to be culturally affiliated with the human remains or funerary objects should contact Richard Ring, Superintendent, Everglades National Park, 40001 State Road 9336, Homestead, FL 33034, telephone (305) 242–7710, before April 5, 1996. Repatriation of the human remains and funerary objects to the Miccosukee Tribe of Indians of Florida

may begin after that date if no additional claimants come forward.

Dated: February 29, 1996

Francis P. McManamon

Departmental Consulting Archeologist

Chief, Archeological Assistance Division

[FR Doc. 96–5266 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate Cultural Items in the Possession of the Museum of New Mexico, Santa Fe, NM

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005(a)(2), of the intent to repatriate cultural items in the possession of the Museum of Indian Arts and Culture, Laboratory of Anthropology, Museum of New Mexico, Santa Fe, NM which meet the definition of ''sacred object'' as defined in Section 2 of the Act.

The ten objects include: one snake effigy; one parrot effigy; two wooden balls; two katsina figures; three fetishes; and prayersticks, fetishes, and talismans comprising one shrine.

Between 1928 and 1972, the Museum of New Mexico accessioned these ten cultural items into its collections.

In 1928, the three wooden cylindrical fetishes were purchased at the Pueblo of Acoma by Mr. George H. Huddy during a Fred Harvey Car tour.

On October 6, 1957, Mr. and Mrs. G. Olmi illegally removed a shrine from Acoma tribal lands, and donated the shrine consisting of prayersticks, wood fetishes, and talismans to the Museum of New Mexico.

In 1958, one red and white cylindrical katsina figure was purchased from Mr. James K. Riley, and the other brown, white, blue, and black cylindrical Mountain katsina figure purchased from Mr. James Byrns.

In 1968, the Museum of New Mexico purchased the green carved foot-tall parrot effigy from Mr. Joe Chavez of San Fidel, NM.

In 1972, the second small unpainted wooden ball was improperly removed from Acoma lands by a Museum of New Mexico archeologist.

The Museum has no information concerning the collection or donation of the snake effigy or one of the wooden balls. The wood snake effigy is undecorated. The small wooden ball is unpainted, with a notation ''purchase MCS''. Museum records do not indicate the meaning of ''purchase MCS''.

During consultation with the Museum of New Mexico, representatives of the Pueblo of Acoma identified these objects as necessary for the practice of traditional Acoma religion. Provenance information indicates the objects are Acoma in origin and most likely used by Acoma during the last one hundred years, and as recently as the 1950s.

Based on the above-mentioned information, officials of the Museum of New Mexico have determined that, pursuant to 25 U.S.C. 3001(3)(C), these cultural items are specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents. Officials of the Museum of New Mexico have also determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between these items and the Pueblo of Acoma.

This notice has been sent to representatives of the Pueblo of Acoma. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these objects should contact Dr. Bruce Bernstein, Director, Museum of Indian Arts and Culture/ Museum of New Mexico, P.O. Box 2087, Santa Fe, NM 87504–2087, telephone (505) 827–6344 before April 5, 1996. Repatriation of these objects to the Pueblo of Acoma may begin after that date if no additional claimants come forward.

Dated:

Francis P. McManamon

Departmental Consulting Archeologist

Chief, Archeology and Ethnography Program

[FR Doc. 96–5265 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–70–F

Sunshine Act Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, March 21, 1996.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 pm at Blackstone Town Hall, 15 St Paul Street, Blackstone, MA for the following reasons:

1. Presentation by the Town of North Smithfield
2. Other Commission Business

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James R. Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250.

Further information concerning this meeting may be obtained from James R. Pepper, Executive Director of the Commission at the aforementioned address.

James R. Pepper,

Executive Director BRVNHCC.

[FR Doc. 96–5343 Filed 3–4–96; 10:12 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

American River Water Resources Investigation, Central Valley, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public workshops and public hearings on draft planning report/draft environmental impact statement/draft environmental impact report.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 and the California Environmental Quality Act, the Bureau of Reclamation (Reclamation) and the Sacramento Metropolitan Water Authority (SMWA) have prepared a draft planning report/ draft environmental impact statement/ draft environmental impact report (DPR/ DEIS/DEIR) for the American River Water Resources Investigation (ARWRI). The DPR/DEIS/DEIR was made available to the public on February 2, 1996. Reclamation and SMWA have scheduled five public workshops to present material on the alternatives and to answer questions. Five public hearings will also be held to receive comments from interested organizations and individuals on the environmental impacts of the project.

DATES: The public workshops will be held at the following locations:

• March 19, 1996, 7:00 p.m., Folsom Community Center, 52 Natoma Street, Folsom, CA 95630.

• March 20, 1996, 1:00 p.m., Red Lion Sacramento Inn, 1401 Arden Way (at Business 80), Sacramento, CA 95815.

• March 21, 1996, 7:00 p.m., Auburn Holiday Inn, 120 Grass Valley Highway, Auburn, CA 95603.

• March 27, 1996, 2:00 p.m., Best Western Placerville Inn, 6850 Greenleaf Drive, Placerville, CA 95667.

• March 28, 1996, 7:00 p.m., Stockton Hilton, 2323 Grand Canal Boulevard, Stockton, CA 95207.

The public hearings will be held at the following locations:

• April 9, 1996, 7:00 p.m., Stockton Hilton, 2323 Grand Canal Boulevard, Stockton, CA 95207.

• April 10, 1996, 7:00 p.m., Auburn Holiday Inn, 120 Grass Valley Highway, Auburn, CA 95603.

• April 11, 1996, 7:00 p.m., Folsom Community Center, 52 Natoma Street, Folsom, CA 95630.

• April 16, 1996, 7:00 p.m., Best Western Placerville Inn, 6850 Greenleaf Drive, Placerville, CA 95667

• April 17, 1996, 7:00 p.m., Red Lion Sacramento Inn, 1401 Arden Way (at Business 80), Sacramento, CA 95815.

ADDRESSES: Written comments should be addressed to Mr. Alan R. Candlish, Study Manager, CC–102, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom CA 95630; telephone: (916) 989–7255.

FOR FURTHER INFORMATION CONTACT: Mr. Alan R. Candlish, Study Manager, CC–102, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom CA 95630, telephone: (916) 989–7255; Mr. Gene Robinson, Sacramento Metropolitan Water Authority, 5620 Birdcage Street, Suite 180, Citrus Heights, CA 95610–7632, telephone: (916) 967–7692; or Mr. David M. Haisten, Activity Manager, MP–700, Bureau of Reclamation, 2800 Cottage Way, Sacramento CA 95825–1898, telephone: (916) 979–2338.

SUPPLEMENTARY INFORMATION

Requests to Testify

Written or telephone requests to present oral comments at the April 1996 public hearings should be addressed to Ms. Lynnette Wirth, MP–140, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825–1898, (916) 979–2837. Registration cards for presenting oral comments will also be at each public hearing.

Oral comments at each hearing will be limited to 5 minutes. The hearing officer may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers not present when called will lose their privilege in the scheduled order, and will be recalled at the end of the scheduled speakers. Written comments from those unable to attend or those wishing to supplement their oral presentation at the hearing should be received by Reclamation by April 18, 1996, for inclusion in the hearing record. Written comments received after April 18, 1996, will not be included in the hearing record but will be included in the public comment period which will close on May 3, 1996. All written comments should be addressed to Mr. Alan R. Candlish, Study Manager, CC–102, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom CA 95630, telephone: (916) 989–7255.

Dated: February 29, 1996.

Franklin E. Dimick,

Acting Regional Director.

[FR Doc. 96–5184 Filed 3–5–96; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–34 and 92–78]

AML Corporation, d/b/a G & O Pharmacy, and G & O Pharmacy Revocation of Registration

On July 23, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to G & O Pharmacy (Respondent), DEA Registration, AG2999691, of Paducah, Kentucky, notifying it of an opportunity to show cause as to why DEA should not revoke its DEA Certificate of Registration, and deny any pending applications, under 21 U.S.C. 823(f) and 824(a)(4), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged in substance, that: (1) in July 1990, an individual had overdosed on Demerol received from the owner-manager pharmacist of the Respondent, Randall Lockhart, without benefit of prescription; (2) accountability audits conducted of the Respondent by DEA investigators in 1990 revealed shortages of Schedules II and III controlled substances; (3) the Respondent had filled at least 217 call-in prescriptions not authorized by the physicians whose names appeared on the Respondent's records; and (4) at least one individual, on multiple occasions, had received controlled substances from Mr. Lockhart without seeing the physician listed on the call-in prescriptions.

Respondent, through counsel, filed a timely request for a hearing, and the case was docketed as G & O Pharmacy, Docket No. 92–78. Following prehearing procedures, a hearing was held in Louisville, Kentucky, on March 10 and 11, 1993. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, counsel for both parties submitted proposed findings of fact, conclusions of law and argument.

Subsequently, on December 16, 1993, counsel for the Government filed a motion to reopen the proceedings. The motion alleged that Mr. Lockhart had transferred the ownership of Respondent G & O Pharmacy to AML Corporation (AML). Further, the motion alleged that AML had applied for and received a DEA registration, BA3838553, to operate the Respondent, and that DEA had not been notified, pursuant to 21 CFR 1301.62 and 1307.14(b), that G & O Pharmacy had ceased doing business under the previous ownership or that Mr. Lockhart had transferred ownership to another entity. The Respondent did not answer the motion, and on January 12, 1994, Administrative Law Judge Mary Ellen Bittner issued an order reopening the proceedings in Docket No. 92–78.

On March 11, 1994, an Order to Show Cause was issued to AML d/b/a/ G & O Pharmacy, alleging that the Respondent's continued registration was inconsistent with the public interest on the same basis as stated in the July 1992 order in Docket No. 92–78, with the addition of the allegation that Mr. Lockhart had improperly transferred ownership of Respondent without notifying the DEA as required. The Respondent requested a hearing, and on June 1, 1994, Judge Bittner issued an order consolidating the two cases. On November 17, 1994, Judge Bittner conducted a hearing in the consolidated proceedings in Louisville, Kentucky. At this hearing, AML was represented by counsel, and both parties called witnesses to testify and introduced documentary evidence. Following the hearing, both the Government and the Respondent, AML, filed further proposed findings of fact, conclusions of law and argument.

On May 31, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's DEA registration be revoked and that any pending applications be denied. AML and G & O Pharmacy filed exceptions to her opinion, and on July 17, 1995, the Government filed a response to these exceptions. On July 19, 1995, Judge Bittner transmitted the record of these proceedings and the

parties' filings to the Deputy Administrator.

The Deputy Administrator has considered the record and the filings by the parties in their 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 Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, with noted exceptions, 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 the Respondent is a pharmacy in Paducah, Kentucky. Randall Lockhart is a registered pharmacist in the Commonwealth of Kentucky, and he has practiced pharmacy since 1959. His wife, Cynthia Lockhart, is a registered nurse who worked at the Respondent's location. In March or April of 1989, Mr. Lockhart bought a 50% ownership in Oehlschlaeger Corporation (Oehlschlaeger), owner of the Respondent pharmacy, and in February of 1990, he bought the remaining 50% ownership interest. Mr. Lockhart continued to work as the pharmacist at G & O Pharmacy.

At the hearing before Judge Bittner, Mr. Lockhart testified that in July 1990, he had received a telephone call from a local dentist (Dentist), requesting injectable Demerol for a planned surgical procedure he was to perform with the assistance of another dentist, Dr. Heine. Mr. Lockhart further testified that he had told the calling Dentist that he had twenty-four vials of Demerol on hand, but that he would either have to write a prescription if the Demerol was for the use of a single patient, or provide a DEA order form, if he wanted the substance for general office use. Demerol is the brand name for meperidine hydrochloride, a Schedule II controlled substance.

Although in dispute, Mr. Lockhart testified that the Dentist then appeared at the pharmacy, gave Mrs. Lockhart what appeared to be a prescription for Demerol, and obtained all twenty-four vials from the pharmacy, telling Mrs. Lockhart that he would return the next day with the requisite DEA order form. The next day, Mr. Lockhart called Dr. Heine and requested that either he or the Dentist provide the required paperwork for the transfer of the Demerol, and that Dr. Heine told him that the Dentist was a drug addict, and that ''he wouldn't do a surgical procedure with him in a 100 years.'' Mr. Lockhart testified that that was the first time he had ever heard the Dentist referred to as a drug addict. Mr. Lockhart then testified that, upon further investigation, he found out that the Dentist was in a hospital emergency room following an overdose.

Mr. Lockhart testified that he subsequently contacted the Inspector of the Kentucky Board of Pharmacy (Kentucky Board) for advice, and that the Inspector advised him to contact the DEA office in Louisville. Mr. Lockhart wrote to the DEA, and following the DEA's advice, also wrote to the Board of Dentistry concerning these events.

Paducah Police Department Officers (Officers) interviewed the Dentist, who stated that he had not written the prescription Mr. Lockhart had for the Demerol. The Dentist also stated that on fifteen to twenty previous occasions he had received controlled substances from Mr. Lockhart merely by asking, and that he had obtained ''basically whatever I wanted [a]s long as it wasn't Schedule II.'' He also stated that he had taken fictitious prescriptions for Percocet to Mr. Lockhart, which he had filled. Percocet contains oxycodone, a Schedule II controlled substance.

The Dentist also told the Officers that he had been a substance abuser since 1985, and that he was sure Mr. Lockhart knew what he intended to do with the drugs he obtained from the Respondent, although he later stated that he had assumed Mr. Lockhart knew of his substance abuse problem. However, at the hearing before Judge Bittner, Mr. Lockhart denied knowing that the Dentist was a substance abuser at the time of this incident.

A DEA diversion investigator (Investigator) testified that the Paducah Police Department had advised him in September of 1990, of the incident with the Dentist, and that on October 10, 1990, a DEA special agent served a federal search warrant on the Respondent. Pursuant to this warrant, DEA personnel seized controlled substance prescriptions and other records.

The Investigator testified that he had used the seized records to conduct an accountability audit of the Respondent's Schedule II controlled substances for the period May 28, 1989, to October 10, 1990, and for various Schedule III through V controlled substances for the period May 1, 1989, through October 10, 1990. In her opinion, Judge Bittner summarized the significant audit results, and the summaries demonstrate that Mr.Lockhart had significant shortages of Dilaudid 4 mg., Meperidine, Mepergan Fortis, Valium 10 mg., APAP #3, Tylenol #3, Lortab 5 mg. and 7.5 mg., and Didrex 50 mg., as well as a significant overage of Demerol 100 mg.

Mr. Lockhart testified before Judge Bittner that he did not think that the DEA audit accurately reflected shortages and overages, but that he was unable to verify the numbers. He also testified that he had not conducted an inventory when he had purchased an interest in the Respondent pharmacy, and that there could have been shortages at that time. The Inspector testified that Mr. Lockhart's records had been seized in a search conducted by the Paducah police officers prior to the DEA search, and that the Officers had not returned them. It is undisputed that the Paducah police executed a search warrant for the Respondent's controlled substance records in August 1990. However, Mr. Lockhart did not indicate that he ever advised the DEA Investigator, at either the time of the DEA search or audit, that G&O's records may have been incomplete.

The Investigator testified that during the October 1990 search, he had noticed that the Respondent had filled disproportionately more call-in prescriptions than other pharmacies. Therefore, he obtained copies of these prescriptions from the Respondent pharmacy. The Investigator then interviewed the physicians (or their office personnel) listed on the prescriptions to verify the authorization for each prescription under review. In ten cases,the physician or office personnel working for the physician, indicated that the person named on the prescription was not his or her patient, and that patient records were not maintained for that named individual. In total, the Investigator testified that he was unable to verify approximately 198 prescriptions purportedly authorized by twenty different doctors. Many of the prescriptions were dated after the time Mr. Lockhart became the 100 percent owner of the pharmacy. All of these prescriptions were dispensed by either Mr. Lockhart or Mr. Oehlschlaeger, another pharmacist and co-owner working at the Respondent pharmacy prior to Mr. Lockhart's becoming the sole owner. Judge Bittner found the Investigator's testimony credible.

However, Mr. Lockhart testified that all of the allegedly unauthorized prescriptions were authorized, and that ''almost all [of these unauthorized prescriptions were] what [amounted] to refill prescriptions.'' He also testified that he had routinely received oral prescriptions from the physicians who had denied authorizing the prescriptions under review.

While the G&O Pharmacy case was pending, Mrs. Lockhart called the Diversion Group Supervisor (Supervisor) at DEA's Louisville office to express her concern about the Respondent's Certificate of Registration. The Certificate was due to expire, and because of the pending proceedings, a renewal certificate had not been issued. Mrs. Lockhart feared suppliers would not fill orders because of the expired certificate. The Supervisor advised Mrs. Lockhart that the registration remained active on a day-to-day basis until a final order was issued by the DEA. The Supervisor also offered to call the Respondent's suppliers to explain the situation. Subsequently, the Investigator, a subordinate of the Supervisor's, did call a supplier and an insurance company and explained that the Respondent remained authorized to handle controlled substances on a day-to-day basis.

On May 31, 1993, Mr. Lockhart executed a renewal application for the respondent's Kentucky pharmacy license, listing Respondent's owner as Oehlschlaeger with himself as the president, and Mrs. Lockhart as the vice president, secretary, and treasurer. On August 11, 1993, Mr. Lockhart executed a renewal application for the Respondent's DEA registration. However, on October 4, 1993, Mrs. Lockhart executed articles of incorporation for AML, listing its business address as the same as the Respondent's, with herself as the incorporator. By letter dated October 13, 1993, Mr. Lockhart advised the Pharmacy Board of the transfer of ownership to AML with Mrs. Lockhart as the sole owner of AML's stock.

Before Judge Bittner, Mrs. Lockhart testified that she and her husband had talked about this transfer of ownership as early as in 1990, and that the primary reason for the transfer of ownership was Mr. Lockhart's health. He had had coronary bypass surgery approximately 9 years prior, and they had both agreed that he should taper his involvement in the business. However, Mr. Lockhart remained the primary pharmacist. Mrs. Lockhart testified that she intended to hire another pharmacist, but due to the uncertainty generated by these proceedings, she had waited to add additional staff until she could provide assurances of long-term employment. Mrs. Lockhart further testified that she had formed a new corporation, rather than merely having her husband transfer his stock from the prior corporation to her, because she wanted a corporate name of her own. The record contains no indication of how much money, if any, AML paid for the business.

On October 15, 1993, Mrs. Lockhart applied for a Kentucky pharmacy license for the Respondent, noting the change of ownership, listing a proposed acquisition date of October 26, 1993, and showing the corporate owner as ''AML Corp. DBA G&O Pharmacy.'' She also listed herself a President, Vice President, And Secretary/Treasurer, and her husband as Pharmacist in Charge.

That same day, Mrs. Lockhart executed an application for a DEA registration, listing herself as president of ''AML Corporation, doing business as G&O Pharmacy,'' located at the same address as the Respondent. AML was issued a Certificate of Registration, number BA3838553, effective November 15, 1993, with an expiration date of June 30, 1996.

The Investigator testified before Judge Bittner that he had first learned about the AML transaction on or about December 1, 1993, when the Louisville DEA office received copies of DEA order forms dated November 22, 1993, transferring Schedule II controlled substances from ''G&O Pharmarcy'' to AML. Mrs. Lockhart testified that she had mailed the DEA order forms. She also testified that her husband had mailed to the DEA the prior corporation's unused DEA order forms and the Respondent's expired DEA Certificate of Registration. Although Mrs. Lockhart testified that she had retrained possession of the return mail receipts for both sets of documents, such receipts were not offered into evidence and are not a part of the record. Further, the Investigator testified that he have not personally received any unused order forms from the Respondent, and that there was no record in his office that the forms had been received. Further, the record contains no other evidence to evidence to show that the unused order forms had been received by the DEA or that the DEA has been advised of the transfer of ownership of the Respondent as required by DEA regulations.

The Pharmacy Board Inspector testified that he had inspected the Respondent approximately two to four times per year, and that after Mr. Lockhart had become associated with the pharmacy, it had a ''clearner and neater appearance,'' and its recordkeeping had improved. The Inspector also testified that he had inspected the Respondent after AML had become its owner, and that as far as he knew it was not cited for any violations of Kentucky regulation and remained in good standing with the Pharmacy Board. Further, Mrs. Lockart testified before Judge Bittner, stating that the Respondent was an independent pharmacy, that it was the only pharmacy in the area that compound medications, and that physicians from a nearby hospital routinely called her husband to obtain advice on how to prepare pediatric medications.

Pursuant to 21 CFR 1301.62 and 1301.63, the cessation of business terminates a DEA registration, and a registrant is required to notify the agency promptly and in writing if it ceases doing business. The regulations also require a registrant intending to transfer its business interests to another business entity to provide specified information to the appropriate DEA Special Agency in Charge at least fourteen days in advance of the proposed transfer. Also, pursuant to 21 CFR 1307.14(b), an inventory of all controlled substances must be taken on the date of the transfer, but the regulation does not require filing of the inventory with the DEA.

Further, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The appplicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No 88–42, 54 FR 16422 (1989)

In this case, the Deputy Administrator finds factors one, two, four, and five relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board,'' per the Inspector's testimony, the Respondent AML's state licenses are in order, and no adverse actions are pending.

As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' it has previously been found that the improper filling of prescriptions by a pharmacist working in a pharmacy could serve as a basis for revoking the DEA Certificate of Registration for that pharmacy. See, e.g., Medic-Aid Pharmacy, Docket No, 89–12, 55 FR 30043 (1990). Also, the regulations implementing the Controlled Substances Act specify that a prescription for a controlled substance ''shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.'' 21 CFR 1306.05(a). Also, a pharmacist may dispense directly a Schedule II controlled substance ''only pursuant to a written prescription signed by the prescribing individual practitioner. * * *'' 21 CFR 1306.11(a). The regulations also prohibit practitioners from issuing prescriptions in order ''to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.'' 21 CFR 1306.04(b).

It is undisputed that the document left by the Dentist when he took the Demerol in July of 1990, even if he had, in fact, signed it and left it with Mrs. Lockhart, would not have been an adequate document to record the transfer of 24 dosage units of Demerol for in-office use. However, the Deputy Administrator agrees with Judge Bittner's conclusions regarding this incident, when she wrote:

> Assuming *arguendo,* that Mr. Lockhart did not examine the ''prescription,'' and that neither of the Lockharts anticipated that [the Dentist] would take the Demerol without leaving proper documentation, this incident standing alone might not warrant revoking [the] Respondent's DEA registration.

However, this incident does not stand alone, for the record contains other evidence of Mr. Lockhart's dispensing practices. Although Mr. Lockhart testified about flaws in the DEA audit, especially following the Paducah Police search, Judge Bittner noted that ''Mr. Lockhart apparently did not think it necessary to advise the DEA auditors that his records might be incomplete, which prompts the inference, which I make, that he was not seriously concerned about the matter.'' Further, Judge Bittner found that ''[the] Respondent adduced no persuasive evidence to explain the shortages.'' Rather, she noted, and the Deputy Administrator concurs, that the evidence demonstrated that the shortages were substantial, for ''some shortages of Schedule III through V controlled substances were in the thousands of dosage units, amounting to more than fifty percent of the total for which [the] Respondent was accountable.'' The Deputy Administrator also concurs with Judge Bittner's conclusion, that ''these shortages constitute a basis for revoking [the] Respondent's DEA registration.'' See Val Gene Tatum, d/b/a/ Val's Pharmacy, 56 FR 16117 (1991), aff'd sub nom Val G. Tatum v. DEA, 9th Cir. No. 91–70328 (January 16, 1992; unpublished).

As for the evidence of unauthorized dispensing, the Investigator testified that approximately 198 prescriptions were unauthorized, and in 10 cases, he had interviewed doctors or their office personnel, who had stated that the individuals named on the prescriptions were not their patients. Although the Investigator's testimony concerning his conversations with these medical personnel was hearsay, the Deputy Administrator concurs with Judge Bittner's findings and conclusions as to the reliability of this evidence: ''I find that the hearsay evidence introduced through [the] Investigator [ ] is more reliable than Mr. Lockhart's testimony, and therefore conclude that [the] Respondent filled controlled substance prescriptions without authorization from physicians. This conduct is further grounds for revoking [the] Respondent's DEA registration.'' Also significant, and as noted by Judge Bittner, Mr. Lockhart ''proffered no explanation as to why various doctors denied authorizing the prescriptions at issue.''

As to factor four, the Respondent's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances,'' the Deputy Administrator finds significant the Government's evidence of noncompliance with DEA regulations by Mr. Lockhart when he transferred ownership of G & O Pharmacy to AML. Specifically, 21 CFR 1305.14 states, in relevant part: ''If the registration of any purchaser terminates (because the purchaser * * * ceases legal existence * * *) * * * he shall return all unused order forms for [Schedules I and II] substance[s] to the nearest office of the Administration.'' Although Mrs. Lockhart testified that she believed Mr. Lockhart had sent unused DEA order forms to the DEA via registered mail, AML's counsel did not introduce the registered mail receipt, and the DEA Investigator testified that such forms were not received by the DEA.

Furthermore, in this case, 21 CFR 1307.14(b) required Mr. Lockhart to provide the Special Agent in Charge in his area specific information at least 14 days in advance of the date of the proposed transfer of his ownership in the pharmacy. Unrefuted evidence exists to establish that Mr. Lockhart had failed to inform the DEA of his transfer of ownership in compliance with this regulation.

The Deputy Administrator also takes into account Judge Bittner's finding: ''Neither Mr. nor Mrs. Lockhart impressed me as credible witnesses. Their testimony appeared tailored to suit [the] Respondent's defenses rather than to accurately reflect relevant events. . . . In contrast, Investigator [ ] appeared to be forthright and to exhibit good recall, and I therefore credit [his] testimony.'' Thus, the Deputy Administrator concludes that preponderating evidence exists to establish that Mr. Lockhart failed to comply with the cited regulations in effectuating the transfer of ownership of G & O Pharmacy.

As to factor five, ''[s]uch other conduct which may threaten the public health or safety,'' the Deputy Administrator finds significant the continued pattern of Mr. Lockhart's noncompliance with the Controlled Substances Act and the implementing regulations. Specifically, in neither hearing before Judge Bittner did Mr. Lockhart present any evidence of his acknowledging past misconduct by taking responsibility for (1) any of the documented shortages of controlled substances; (2) his customer's having obtained controlled substances without authorization from physicians; or (3) his failure to transfer his ownership in the pharmacy in a manner which would have been in compliance with DEA regulations. Mr. Lockhart's conduct fails to reflect the acceptance of responsibility needed to continue as a registered handler of controlled substances.

As for the transfer of ownership of the Respondent, Judge Bittner wrote that ''the preponderance of the record establishes, and I find, that the transfer * * * was not a bona fide transaction, but rather a stratagem to obtain a new DEA registration.'' However, Mrs. Lockhart testified about the efforts she made to insure AML was clearly a distinct entity from Mr. Lockhart's corporation. Specifically, she testified that on behalf of AML, she had opened a bank account, obtained a federal employer tax identification number, procured insurance for AML, and paid Mr. Lockhart a salary as an employee.

After reviewing this evidence, the Deputy Administrator has determined that he need not make a finding as to the viability of this ownership transaction. Even assuming, arguendo, that the transfer was a bona fide transaction, revocation of AML's registration is still appropriate. For, previously it has been found that revocation of the DEA registration remained appropriate despite a transfer of ownership, where there has been no change in the control exerted by the prior pharmacist who had engaged in misconduct related to the dispensing of controlled substances. Specifically, ''[t]he close connection between the former and current owners leads the Administrator to believe that the transfer has not, and will not, alter the way business is conducted at the pharmacy.'' Absecon Pharmacy, Docket No. 88–76, 55 FR 9029 (1990). Here, the new owner, Mrs. Lockhart, is not a registered pharmacist, is the wife of the former owner, and continues to employ Mr. Lockhart as the ''Pharmacist in Charge.'' Mr. Lockhart continues to hold unrestricted authorization to order and dispense controlled substances. Further, AML did not provide any evidence to demonstrate that any precautions had been taken to provide assurances that controlled substances would not be improperly dispensed in the future by Mr. Lockhart. The Deputy Administrator finds that the risk of diversion by Mr. Lockhart remains, even though G & O Pharmacy is currently under the ownership of AML. Since Mr. Lockhart remains the primary pharmacist of the Respondent, his past misconduct continues to justify the revocation of the Respondent's DEA Certificate of Registration.

The Respondent AML raised several exceptions to Judge Bittner's opinion. First, AML asserted that it was denied procedural due process through the consolidation of the two cases, for AML argued that:

> Due process requires that any denial, revocation, or suspension of AML's registration be based upon the acts and omissions . . . of AML, not a predecessor in interest to its business. Further, fundamental due process requires that AML have notice and an opportunity to confront witnesses and contest the grounds upon which the government seeks to revoke its DEA certificate of registration.

However, the Deputy Administrator notes that the Order to Show Cause issued to AML Corporation on March 11, 1994, specifically set out the allegations of Mr. Lockhart's acts of misconduct, mirroring the notice given to G & O Pharmacy in July 0f 1992. By letter dated April 5, 1994, AML's counsel entered his appearance, requested a hearing, and responded to the allegations in the show cause order paragraph by paragraph. Thus, AML had notice of the acts which might constitute the basis for revoking AML's registration.

Further, by order dated June 1, 1994, Judge Bittner ordered G & O's counsel to provide AML's counsel copies of documents from the March 1993 hearing, and she ordered the Government to provide AML's counsel exhibits and a copy of the transcript from that hearing. Judge Bittner, concurrent with the June 1994 order, provided AML's counsel with copies of the Administrative Law Judge's exhibits and the record to date in the G & O case. Also, AML received a hearing, witnesses appeared, and documentary evidence was received. AML thus received notice and had an opportunity to confront witnesses and ''contest the grounds upon which the government seeks to revoke its DEA Certificate of registration''.

The only reference in the record which even arguably could be viewed as restricting AML's access to witnesses, was the following from the hearing transcript of AML's proceedings:

> [Judge Bittner]: My understanding is that we agreed this morning, prior to the commencement of the hearing, that we weren't going back into the prior case.
>
> Mr. SHANNON: [AML's counsel] Yes, Judge. And I was just getting ready to say I can probably obviate any of the objections. All I want the record to reflect is that [the Investigator] conducted the investigation of Oehlschlaeger, Inc., [.] AML Corporation was not audited. They were not in existence.

The Deputy Administrator certainly is not conceding that AML was denied an opportunity to confront and cross-examine witnesses from the preceding hearing. However, even assuming *arguendo*, that AML's access to witnesses was somehow restricted, on the record AML's counsel seems to have affirmatively waived his right to ''go back into the prior case,'' at the hearing before Judge Bittner. Thus, given the complete record of AML's notice, opportunity and access to evidence, and AML's own actions before Judge Bittner, the Deputy Administrator finds that AML's procedural due process rights were not violated by the manner in which these proceedings were conducted.

Further, AML objected to the fact that Judge Bittner did not consider all factors listed in 21 U.S.C. 823(f). As has been previously noted, the Deputy Administrator may review those factors in the disjunctive, and he need not make a finding as to each factor. However, as requested by AML, the Deputy Administrator notes that the record contains no evidence to indicate that AML has been convicted of any federal or state law violations. The remainder of AML's exceptions have been previously addressed.

G & O Pharmacy also filed exceptions to Judge Bittner's opinion. Specifically, G & O objected to Judge Bittner's placing reliance upon the results of the DEA audit. The reliability of the audit results has been addressed by the Deputy Administrator, and needs no further comment here. Second, the Respondent G & O asserts that Judge Bittner erred in admitting hearsay evidence during the administrative hearing. However, since the Respondent's hearing was conducted in accordance with applicable statutes and regulations, the Deputy Administrator declines to adopt the Respondent's exceptions based upon his challenged evidentiary rulings. See, e.g., Klinestiver v. Drug Enforcement Administration, 606 F.2d 1128, 1129–30 (D.C. Cir. 1979); Gary E. Stanford, M.D., No. 91–30, 58 Fed. Reg. 14,430 (1993). As to the probative value, reliability, and ''fairness of its use,'' the Deputy Administrator finds that Judge Bittner addressed these issues in her opinion, that he concurs with her findings, and that no further comment is required.

Therefore, after review of the entire record, the Deputy Administrator finds that the public interest is best served by revoking AML's Certificate of Registration. The Deputy Administrator notes that pursuant to 21 CFR 1301.62, the transfer of ownership of G & O Pharmacy to AML effectively terminated all authority granted under DEA Certificate of Registration AG2999691, previously issued to G & O Pharmacy. *See* 21 CFR 1301.62 and 1301.63. 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 DEA Certificate of Registration BA3838553, previously issued to AML Corporation, is revoked and any pending applications denied at this time. This order is effective April 5, 1996.

Dated: February 29, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–5141 Filed 3–5–96; 8:45 am]

BILLING CODE 4410–09–M

National Institute of Justice

[OJP (NIJ) No. 1072]

RIN 1121–ZA28

National Institute of Justice Solicitation for Boot Camp Research and Evaluation for Fiscal Year 1996

AGENCY: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

ACTION: Announcement of the availability of the National Institute of Justice Solicitation for Boot Camp Research and Evaluation for Fiscal Year 1996.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531.

DATES: The deadline for receipt of proposals is close of business on April 30, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Voncile Gowdy at (202) 307–2951, National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. §§ 3721–23 (1988).

Background

The National Institute of Justice seeks to support evaluations of the impact of selected boot camps funded by the Office of Justice Programs under the 1994 Crime Act. NIJ is soliciting proposals that will provide a knowledge base for understanding all aspects of boot camps. A multisite evaluation, as well as a number of local-level evaluations and planning assessments, will be conducted on boot camp programs funded by the OJP Corrections Program Office. Interested organizations should call the National Criminal Jus tice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Boot Camp Research and Evaluation for Fiscal Year 1996'' (refer to document no. SL000139). The solicitation is available electronically via the NCJRS Bulletin Board, which can be accessed via Internet. Telnet to ncjrsbbs.aspensys.com, or gopher to ncjrs.aspensys.com 71. For World Wide Web access, connect to the NCJRS Justice Information Center at http://ncjrs.aspensys.com:81/ncjrshome.html. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set modem at 9600 baud, 8–N–1.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 96–5220 Filed 3–5–96; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

March 1, 1996.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by March 7, 1996. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ([202] 219–5095).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Pension and Welfare Benefits Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ([202] 395–7316).

The Office of Management and Budget is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* enhance the quality, utility, and clarity of the information to be collected; and
* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Pension and Welfare Benefits Administration.

Title: Notice of Conditional Compliance Program.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 1,722.

Estimated Time Per Respondent: 1 hour.

Total Burden Hours: 1,722.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: The Department of Labor (the Department) is proposing to adopt the Pension Payback Program which is designed to benefit workers by encouraging employers to restore delinquent participant contributions plus earnings to pension plans. This program is targeted at persons who failed to transfer participant contributions to pension plans defined under section 3(2) of the Employee Retirement Income Security Act of 1974 (the Act), including section 401(k) plans, within the timeframes mandated by the Department's regulations, and thus violated title of the Act.

The conditional compliance program is available to certain persons who voluntarily restore delinquent participant contributions to pension plans. Those who comply with the terms of the program will avoid potential ERISA civil actions initiated by the Department, the assessment of civil penalties under section 502(l) of the Act and Federal criminal prosecutions arising from their failure to timely remit such contributions and non-disclosure of the non-remittance. As part of this compliance program, notice to the Department is required as well as the provision of certain information to affected participants.

On a temporary basis, pending promulgation by the Department of the final class exemption setting forth the conditions for retroactive relief, the Department will not pursue enforcement against persons who comply with the conditions of the Program with respect to any prohibited transaction liability which may have arisen as a result of a delay in forwarding participant contributions. The Internal Revenue Service has advised the Department that it will not seek to impose the Internal Revenue Code section 4975(a) and (b) sanctions with respect to any prohibited transaction that is covered by the proposed class exemption, notwithstanding any subsequent changes to the proposed exemption when it is finalized, provided that all requirements specified in the proposed class exemption have been met.

A notice of proposed exemption which, when finalized, will replace the non-enforcement policy, will be published in the Federal Register on the same date as the announcement of the program. It is contemplated that the proposed exemption will require, in part, compliance with the notice and informational requirements of the conditional compliance program. Participation in the program will be available to persons who rely on the proposed exemption notwithstanding any subsequent modifications to the final exemption.

Cheryl A. Robinson,

Acting Departmental Clearance Officer.

[FR Doc. 96–5236 Filed 3–5–96; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: March 29–30, 1996; 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 310, 4201 Wilson Boulevard, Arlington, VA

Type of Meeting: Closed.

Contact Person: Fred Stollnitz, Program Officer for Cross-Directorate Activities in the Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1413.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Planning Grants and Career Advancement Awards for Women Scientists and Engineers (RPG/CAA) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5268 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice Of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: March 27 & 28, 1996.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Lisa Brooks, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1480.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5277 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: March 26 & 27, 1996; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530 & 580, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Oscar W. Dillon, Dr. William A. Spitzig, Program Directors, Mechanics and Materials Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x5076/x5078.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5272 Filed 3–5–96; 8:45 am]

BILLING CODE 4555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee (Act Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time; March 29, 1996; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 390, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Oscar W. Dillon, Dr. William A. Spitzig, Program Directors, Mechanics and Materials Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x5076/x5078

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5273 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Civil and Mechanical Systems (#1205).

Date and Time: March 28–29, 1996, 8:30 a.m. to 5:00 p.m.

Place: Room 1020, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: John B. Scalzi, Program Director in the Division of Civil and Mechanical Systems, Rm 545, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1362.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Unsolicited IIA Large Structural and Building Systems Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5275 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Division of Environmental Biology: Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings.

Name: Advisory Panel for Ecological Studies (#1751)

Date & Time: March 27–29, 1996, 8:30 a.m.–5:00 p.m. each day.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Taber Allison, Program Director, Ecological Studies, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1479.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Ecology proposals as part of the selection process for awards.

Name: Advisory Panel for Ecological Studies (#1751)

Date & Time: April 11 & 12, 1996, 8:30 a.m.–5:00 p.m. each day.

Place: Room 680, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. James T. Callahan, Program Director, Ecological Studies, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1479.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Ecosystem Studies proposals as part of the selection process for awards.

Name: Advisory Panel for Systematic and Population Biology (#1753).

Date & Time: March 26–29, 1994, 8:00 a.m.–5:00 p.m. each day.

Place: Room 1235, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Charles O'Kelly, Program Director, Systematic and Population Biology Cluster, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1481.

Minutes: May be obtained from the contact person above.

Agenda: To review and evaluate Systematic Biology Proposals as part of the selection process for awards.

Name: Advisory Panel for Systematic and Population Biology (#1753).

Date & Time: April 11–12, 1996, 8:00 a.m.–5:30 p.m. each day.

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone: (703) 306–1481.

Contact Person: Dr. Candace Galen, Program Director, Systematic and Population Biology Cluster, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone: (703) 306–1481.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Population Biology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5279 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name of Committee: Advanced Technological Education (59)

Date and Time: March 14, 1996 7:00 p.m. 10:00 p.m., March 16, 1996 8:00 a.m.–5:00 p.m.

Place: The Latham Hotel 3000 M Street, N.W., Washington, D.C. 20007–3701 (Georgetown).

Type of Meeting: Closed.

Contact Person: Dr. Gerhard Salinger, Program Officer, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1620.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Difficulty in locating acceptable meeting site.

Dated: March 1, 1996.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5270 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Notice Of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: March 25, 1996: 8:30 a.m. to 5 p.m.; March 26, 1996: 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 310, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Bobbie Wilson, Program Director, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1634.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Improvement in Minority Institutions proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5

U.S.C. 552(b)(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5274 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR) (# 1203).

Date and Time: March 29, 1996; 8:00 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room # 1060, Arlington, VA 22230.

Type of Meetings: Closed

Contact Person: Dr. Lorretta J. Inglehart, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd, Arlington, VA, 22230. Telephone (703) 306–1817.

Purpose of Meeting: To provide advice and recommendations concerning support for Instrumentation for Materials Research proposals.

Agenda: Evaluation of proposals.

Reason for Closing: The proposal being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5271 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Mathematical Sciences Research Planning Grants and Career Advancement Awards for Women and Minorities (#1204).

Date and Time: March 25–26, 1996, 8:30 am until 5 pm

Place: Room 1020, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Lloyd E. Douglas, Program Director, Division of Mathematical Sciences, Room #1025 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1874.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Planning Grants and Career Advancement Awards for Women and Minorities nominations/applications as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5278 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Office of Systemic Reform; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Code: Office of Systemic Reform/1765.

Date and Time: March 24–26, 1996 (8 am–5 pm).

Place: NSF Headquarters, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Division of Educational System Reform Program Directors, Room 875, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1690.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for Phase 2 of the Statewide Systemic Initiatives Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5269 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Systemic Reform; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Systemic Reform (#1765)

Dates and Times: 12:00 noon–6:30 p.m.; March 28, 1996, 8:00 a.m.–12:00 noon; March 29, 1996.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia 22202. Phone: (703) 416–4100, FAX (703) 416–4126.

Type of Meeting: Closed.

Contact: Dr. Richard J. Anderson, Head, Office of Experimental Program to Stimulate Competitive Research, National Science Foundation, Suite 875, 4201 Wilson Blvd., Arlington, VA 22203, (703) 306–16083.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF EPSCoR program for financial support.

Agenda: To review and evaluate science and technology (S&T) proposals from states participating in the Experimental Program to Stimulate Competitive Research. Proposals request support for 36-month EPSCoR Cooperative Agreements and are submitted in response to NSF EPSCoR solicitation 95–141.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5276 Filed 3–5–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing: Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of issuance of amendment to facility operating license, proposed no significant hazards consideration determination, and opportunity for a hearing: Correction.

SUMMARY: This document corrects a notice appearing in the Federal Register on February 29, 1996 (61 FR 7823), that states that the Commission is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to the Cleveland Electric Illuminating Company, et al. This action is necessary to change the 30-day filing date to a 15-day filing date.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, telephone (301) 415–7163.

SUPPLEMENTARY INFORMATION: On page 7823, in the third complete paragraph in the third column, the date ''April 1, 1996,'' should read ''March 15, 1996.''

Dated at Rockville, Maryland, this 28th day of February 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 96–5203 Filed 3–5–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to The Cleveland Electric Illuminating Company, et al. (the licensee), for operation of the Perry Nuclear Power Plan, Unit 1, located in Lake County, Ohio.

The proposed amendment would revise the licensing basis as described in the Updated Safety Analysis Report to allow the drywell personnel airlock shield doors to be opened during plant startup and shutdown (Operational Conditions 1, 2, and 3) until the end of Operating Cycle 6.

The licensee has requested that the review be handled as an exigent amendment to support restart following the end of the current fifth refueling outage. On February 9, 1996, the licensee determined that opening the shield doors at power was a condition outside the original design basis of the facility.

The licensee met with the staff on February 15, 1996, completed engineering analyses, and prepared the request for license amendment in a timely fashion and submitted the request on February 27, 1996. Review of this amendment request will ensure that processing of the amendment will not be the sole item restraining plan restart from the current refueling outage, which is currently scheduled for March 25, 1996. Such a restraint would result in a costly extension to the outage with no corresponding benefit to safety.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

An assessment was made of functionality given occurrence of the loads imposed on the shield doors. This assessment involves the 620′-6″ steel platform, the monorail suspension structure and the shield doors themselves. Although certain structural members of the 620′-6″ platform exceed the design basis acceptance criteria, these members were found to be acceptable when reviewed for functionality using alternate acceptance criteria. This demonstrates that the various supported systems and components that are important to safety will remain OPERABLE (for Technical Specification systems) or functional (for non-Technical Specification systems, structures and components). Even if the 3/4 inch tie rod (which provides lateral stability) and the left support bracket (a vertical load bearing member) were assumed to be failed, the shield doors would remain in a upright position and not fall. The monorail suspension structure and shield doors do not provide support to other systems. There are no interferences, and opening the shield doors has no effect on other systems. Therefore, there will be no increase in the probability of an accident due to the monorail suspension structure or shield doors, with the doors placed in the open position during Operational Conditions 1, 2, and 3.

The primary purpose of the shield doors is to mitigate radiation streaming from the Drywell through the Personnel Airlock into the adjacent areas of the Containment, to maintain doses to personnel working inside containment ALARA (as low as reasonably achievable). Opening the doors during power operation will have no effect on the postulated accident source term, and the shield doors do not provide a barrier against fission products. Therefore, allowing the shield doors to be opened during plant startup and shutdown while in Operational Conditions 1, 2, or 3 will also not increase the consequences of an accident previously evaluated in the USAR.

Based on the above, the proposed changes do not significantly increase the probability or the consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve physical modifications to the plant. There are no interferences with piping or other system components when the doors are placed in the open position during Operational Conditions 1, 2, or 3. Given the initiating events postulated for the various load combinations, non result in a new type of accident. The increase in radiation levels in the immediate vicinity of the open shield doors with the plant at power was verified to have no effect on the qualification and operation of systems, structures, or components important to safety. Since the platform and the monorail suspension structure will continue to provide support for the shield doors, i.e., the doors will not fall from the support structure, no new initiators of accidents are introduced.

The 620′-6″ platform will continue to function with the shield doors open. The equipment supported by the platform will continue to perform their safety related design functions. Although components of the platform and the monorail suspension structure exceed design basis acceptance criteria, analyses have shown that, based on a functional assessment, the monorail suspension structure will continue to function and the doors will remain upright. With no additional loads imposed on other equipment and the continued functioning of the monorail suspension structure, there will be no ''different'' accidents, since there will be no change, degradation, or prevention of actions described or assumed in any analyzed accident. The radiological consequences and the fission product barriers are not affected.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The NRC has accepted the Perry structural steel design (Safety Evaluation Report,

NUREG–0887) based on the Structural Acceptance Criteria in Standard Review Plan Section 3.8.3. Analyses were subsequently performed considering the shield doors to be in the open position during plant operation. Several members and connections of the 620′–6″ platform and monorail suspension structure exceed the allowable stresses based on those acceptance criteria, and therefore a determination was made under the provisions of 10 CFR 50.59 that there was a slight reduction in the margin of safety. However, as described below, the proposed change has been reviewed and determined not to involve a significant reduction in a margin of safety, as discussed in 10 CFR 50.92.

Those members which had exceeded the design basis allowables were found to meet the Functional Evaluation acceptance criteria. This demonstrated functionality of the platform and the monorail structure; i.e., the platform would continue to support systems, structures, and components (SSCs) important to safety, the SSCs would remain functional, and the shield doors would not fall down. Analytical conservatisms within the Functional Evaluations remain to provide adequate assurance of continued function of the affected SSCs.

Placing the shield doors in the open position during Operational Conditions 1, 2, or 3 is not inconsistent with the guidelines of the Technical Specifications for High Radiation Areas and the Radiation Protection Program. The open shield doors will not affect radiological limiting conditions or action limits for plant effluents as described in the Technical Specifications or Operating License. It does not affect the radiological bases as described in the Technical Specifications or Operating License. It does not affect the margin of radiological safety. The offsite radiation doses to members of the public are not increased.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 18, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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 Perry Public Library, 3753 Main Street, Perry, Ohio. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitioners are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 284–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail H. Marcus: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay E. Silberg, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 27, 1996, 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 Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland, this 29th day of February 1996.

For the Nuclear Regulatory Commission.

Linda L. Gundrum,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–5206 Filed 3–5–96; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation, Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approving disposal in place of slightly contaminated soil located beneath existing plant structures 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 approve disposal in place of slightly contaminated soil placed at its present location beneath existing plant structures during original plant construction.

The proposed action is in accordance with the licensee's application dated November 18, 1991, as supplemented by letter dated July 10, 1992.

The Need for the Proposed Action

During plant operation, a leak from a chemistry sample sink drain released small amounts of radioactive contamination to soil located beneath existing plant structures. The licensee proposes to dispose of the contaminated soil in its present location.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed disposition of the soil in its current location will minimize the risk of unexpected exposure.

The change 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 measurable 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.

Agencies and Persons Consulted

In accordance with its stated policy, on December 21, 1995, the staff consulted with the Vermont State official, Mr. William K. 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 November 18, 1991, as supplemented by letter dated July 10, 1992, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 27th 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. 96–5205 Filed 3–5–96; 8:45 am]

BILLING CODE 7590–01–P

Public Workshop on the Nuclear Regulatory Commission's Materials Licensing Process

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: The NRC will hold a public workshop in Rockville, Maryland, to receive input from licensees and the public on its recent initiative to re-design the materials licensing process. All interested licensees, and members of the public are invited to attend this workshop. The NRC has prepared a workshop agenda and background information on the project. They will be available for review after April 11, 1996. Attendees, who would like a package in advance of the meeting, should call, fax, or E-mail the contact listed in this notice. Interested parties, unable to attend the workshop, are encouraged to provide written comments pertinent to the process, by May 11, 1996.

DATES: The workshop will be held on April 25, 1996, beginning at 9 a.m. and ending at 5 p.m.

ADDRESSES: The public workshop will be held in the NRC auditorium at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the workshop site is located adjacent to the White Flint Station on the Metro Red Line. Seating for the public will be on a first-come, first-served basis. Written comments may be provided at the workshop or to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555, Attention: Docketing and Service Branch. Written comments should be submitted on or before May 11, 1996. Copies of the agenda and related documents can be obtained, after April 11, 1996, from the NRC contact listed below, or from the NRC's Public Document Room, 2120 L Street NW, Lower Level, Washington, DC 20555; telephone 202–634–3273; fax: 202–634–3343.

FOR FURTHER INFORMATION, CONTACT: Sally L. Merchant, Office of Nuclear Material Safety and Safeguards, Mail Stop T 8–F–5, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–7874; fax: 301–415–5369; INTERNET: SLM2@NRC.GOV.

SUPPLEMENTARY INFORMATION: In October 1994, the NRC began to examine its materials licensing process to identify ways to improve it, while maintaining or raising the level of public safety. An improved process would: perform licensing reviews and associated tasks an order of magnitude faster than the current practice; reduce the resources associated with the current licensing practice; and take full advantage of information technology. The staff is using a technique called Business Process Redesign, a process of fundamentally changing the way that work is performed, to achieve significant improvements in speed, cost, and quality.

A detailed plan for implementing this new process was presented to the Commission in May 1995. On June 16, 1995, the Commission directed the staff: (1) to proceed with the detailed design and testing of the new process; (2) to coordinate its efforts closely with the Agreement States, licensees, and the public; (3) to separate the payment of licensing fees from the process of issuing a license and continue to streamline fees; and (4) extend certain qualified licenses for an additional 5 years, on a one-time basis. A final rule to extend qualified licenses was published on January 16, 1996, and effective on February 15, 1996. Implementation of the new licensing process is scheduled to begin early in 1997.

This workshop is one of a series of interactions with the Agreement States, licensees, and the public to gather suggestions and ideas to ensure the success of this licensing initiative. A transcript of this workshop will be available for inspection, and copying for a fee at the NRC Public Document Room, 2120 L Street, NW, Lower Level, Washington, DC 20555, on or about May 23, 1996.

The workshop will be open to the public, and the public will be provided opportunities throughout the workshop to comment on issues under discussion.

Dated: February 29, 1996.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 96–5204 Filed 3–5–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards and Advisory Committee on Nuclear Waste Subcommittee Meeting

The ACRS and ACNW Subcommittee will hold a joint meeting on March 26, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, March 26, 1996—8:30 a.m. until the conclusion of business.

The Joint Subcommittee will discuss the protocol of the Joint Subcommittee, the activities of the Spent Fuel Program Office, the status of the decommissioning rule and related matters, and perspectives regarding the health effects of low-level radiation. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committees.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS/ACNW staff member named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding these matters.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Senior

Program Analyst, Roxanne Summers (telephone 301/415–7371) between 7:45 a.m. and 4:30 p.m. (EST). Persons planning to attend this meeting are urged to contact the above-named individual one to two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: February 28, 1996.

John T. Larkins,

Executive Director, ACRS/ACNW.

[FR Doc. 96–5207 Filed 3–5–96; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Board of Directors; Sunshine Act Meeting

TIME AND DATE: Tuesday, March 12, 1996, 1:00 p.m. (OPEN Portion); 1:30 p.m. (CLOSED Portion)

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, N.W., Washington, D.C.

STATUS: Meeting OPEN to the Public from 1:00 p.m. to 1:30 p.m.; Closed portion will commence at 1:30 p.m. (approx.)

MATTERS TO BE CONSIDERED:

1. President's Report
2. New Appointment
3. Approval of December 12, 1995 Minutes (Open Portion)
4. Meeting schedule through March, 1997

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 1:30 p.m.)

1. Finance Project in Brazil
2. Insurance Project in Colombia
3. Finance Project in Argentina
4. Insurance Project in Brazil
5. Finance Project in Paraguay
6. Insurance Project in Morocco
7. Global Investment Fund
8. Investment Fund in South Asia
9. Investment Fund in Latin America
10. Investment Fund amendment in the NIS and Baltic States
11. Pending Major Projects
12. Approval of December 12, 1996 Minutes (Closed Portion)

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 96–5422 Filed 3–4–96; 2:07 pm]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21791; 811–3961]

John Hancock Capital Growth Fund; Notice of Application

February 28, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: John Hancock Capital Growth Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 5, 1996 and amended on February 26, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 25, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 101 Huntington Avenue, Boston, Massachusetts 02199–7603.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company. On February 3, 1984, applicant filed a registration statement under the name Criterion Technology Fund, Inc., a Texas corporation, pursuant to section 8(b) of the Act. Applicant reorganized as a Massachusetts business trust on December 17, 1984, and registered an indefinite number of shares under the Securities Act of 1933 on December 31, 1984. The registration statement was declared effective on September 26, 1985, and applicant's initial public offering commenced thereafter. Applicant underwent several name changes, and as of December 22, 1994, was known as the Transamerica Capital Growth Fund. On December 22, 1994, The Berkeley Financial Group, a John Hancock subsidiary, acquired the Transamerica group of funds and applicant became known as the John Hancock Capital Growth Fund.

2. On May 16, 1995, applicant's Board of Trustees (''Trustees''), including a majority of Trustees who were not interested persons of applicant, approved an agreement and plan of reorganization (the ''Agreement''), and recommended that applicant's shareholders approve the Agreement. Under the Agreement, applicant would transfer all of its assets and liabilities to John Hancock Growth Fund (''Growth Fund''), a portfolio of John Hancock Capital Series, for shares of Growth Fund. Pursuant to rule 17a–8 of the Act, applicant's Trustees found that participation in the reorganization was in the best interest of applicant and that the interests of applicant's existing shareholders would not be diluted.[1] Proxy materials were filed with the SEC and were distributed to shareholders on July 21, 1995. A meeting held on September 8, 1995, applicant's shareholders approved the Agreement.

3. Pursuant to the Agreement, on September 15, 1995, applicant transferred all of its assets and liabilities to Growth Fund in exchange for shares of Growth Fund. Immediately thereafter, applicant distributed the shares of Growth Fund to applicant's shareholders in complete liquidation. Upon completion of the reorganization, each shareholder of applicant owned shares of Growth Fund with the same net asset value as the shares of applicant owned by the shareholder immediately prior to the reorganization.

4. Applicant and Growth Fund each assumed its own expenses in connection with the reorganization. No brokerage commissions were incurred in connection with the reorganization.

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and John Hancock Capital Series may deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers.

5. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant was terminated as a business trust under the laws of Massachusetts as of September 15, 1995.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5157 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21793; 811–3246]

Lexington Short-Intermediate Government Securities Fund, Inc.; Notice of Application

February 29, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Lexington Short-Intermediate Government Securities Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 31, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 26, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Park 80 West, Plaza Two, Saddle Brook, New Jersey 07662.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, an open-end management investment company, is organized as a corporation under the laws of Maryland. On August 19, 1981, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. Applicant's registration statement was declared effective on October 19, 1981 and the initial public offering of its shares commenced on or about that date.

2. On September 12, 1995, applicant's board of directors adopted a plan of complete liquidation and termination (the ''Plan''). Prior to the meeting, Lexington Management Corporation (the ''Adviser'') advised the directors that continued operation was not economically feasible for the Adviser or applicant's shareholders. On September 20, 1995, applicant filed proxy materials with the SEC, and, on October 2, 1995, applicant distributed the proxy materials to shareholders. On November 1, 1995, applicant's shareholders approved the Plan. On December 6, 1995, applicant distributed $2,878,850 in cash to its shareholders, which amount represented the cash value of applicant's portfolio and the net proceeds received from the liquidation of the remaining portfolio of applicant. Each shareholder received his or her proportionate interest based on the net asset value.

3. Applicant retained $15,789 to cover outstanding liabilities associated with the liquidation. These liabilities are estimated to be approximately $15,789. Any costs in excess of this amount will be borne by the Adviser.

4. Applicant has no shareholders. At the time of filing the application, applicant's only debts consisted of the above-mentioned liabilities. Applicant is not a party to any litigation or administrative proceeding.

5. Applicant is not now engaged, nor does it propose to engage, in business activities other than those necessary for the winding-up of its affairs.

6. Applicant intends to file for dissolution, in accordance with the laws of Maryland after the SEC has issued an order.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5218 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21792; 812–10016]

McDonald & Company Securities, Inc., et al.; Temporary Order

February 29, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Temporary Order and Notice of Application for Permanent Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: McDonald & Company Securities, Inc. (''McDonald'').

RELEVANT ACT SECTIONS: Permanent order requested, and temporary order issued, under section 9(c) granting an exemption from section 9(a).

SUMMARY: McDonald has received a temporary order for sixty days, and has requested a permanent order exemption it from the prohibitions of section 9(a), solely with respect to its conviction on a misdemeanor charge entered by the Common Pleas Court of Franklin County, Ohio, on February 29, 1996. Pending the SEC's action on the request for the permanent order, McDonald has requested an additional temporary order.

FILING DATE: The application was filed on February 29, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on (30 days following publication in the federal registrar] and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 800 Superior Avenue, Cleveland, Ohio 44114.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Robert A Robertson,

Branch Chief, at (202) 942–0572, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants Representations

1. McDonald is registered as a broker-dealer and an investment adviser. McDonald serves as underwriter and, through its Gradison Division, as investment adviser to four open-end series investment companies (the ''Funds''). The Gradison Division is not organized as a separate legal entity. The Funds consist of eight series with total assets of approximately $2 billion and 60,000 shareholder accounts as of December 31, 1995.

2. On February 29, 1996, McDonald pled no contest to a fourth degree misdemeanor charge under the laws of the state of Ohio in the Common Pleas Court of Franklin County, Ohio, (Docket No. 96CF 02–1274) and was fined $2,000 (the ''Conviction''). McDonald was found to have violated section 101.71(c) of the Ohio Revised Code (''ORC'') by failing to report its expenditures accurately to state legislators during the period of May through August of 1993.

3. Section 101.73 of the ORC requires a ''statement of expenditures'' to be filed with the Ohio Joint Legislative Ethics Committee by any employer of a legislative agent or the agent who makes certain expenditures to the Ohio legislators or their staff. This report must include the amount of the expenditures. Section 101.71(C) provides that no person shall fail to file a statement required to be filed pursuant to section 101.73. Section 101.99 of the ORC states that failure to satisfy this duty is a fourth degree misdemeanor.

4. McDonald was found to have failed to report its expenditures accurately as required pursuant to section 101.73. The expenditures in question totaled $9,540. All but $40 of these expenditures represented payments of honoraria to legislators for agreeing to attend a McDonald sponsored seminar on two successive days. Payments of honoraria were legally permissible under Ohio law at that time. The seminar at issue was attended only by McDonald employees and government affairs consultants acting as McDonald agents. The purpose of the seminar was to educate McDonald employees on current matters pending before the Ohio General Assembly. No specific legislation materially affecting McDonald was discussed at the seminar.

Applicant's Legal Analysis

1. Section 9(a) of the Act disqualifies, among others, any person or company from serving or acting in the capacity of investment adviser or principal underwriter for any registered open-end company, if such person, or an affiliated person of such person, within ten years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as, among other things, an underwriter, a broker, or a dealer.

2. If the conduct that led to the Conviction is deemed to arise out of McDonald's conduct as a underwriter, broker, or dealer, the prohibitions in section 9(a) would apply to McDonald as a result of the Conviction. In addition, the section 9(a) prohibitions would apply to any company which is an affiliated person of McDonald.

3. Section 9(c) of the Act provides that, upon application, the SEC shall grant an exemption from the provisions of section 9(a), either unconditionally or on appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe, or the conduct of such person has been such as to not make it against the public interest or protection of investors to grant the application.

4. McDonald requests a permanent order exempting it from the disqualification provisions of section 9(a) solely with respect to the Conviction, and a temporary order exempting it from section 9(a) pending the SEC's determination with respect to the permanent order. Applicant understands that the SEC's Division of investment Management (the ''Division'') only has the delegated authority to issue a temporary order for a period not to exceed sixty days. 17 C.F.R. 200.30–5(a)(7). Accordingly, applicant requests that the Division, under its delegated authority, issue a temporary order for sixty days. If the SEC has not made a final determination with respect to the permanent order within the sixty day time period, applicant further requests that the SEC issue an additional temporary order to remain in effect until it makes a final determination concerning the permanent order. McDonald requests that the requested relief extend to all entities that may become affiliated persons (as that term is defined in section 2(a)(3) of the Act) of McDonald in the future. No affiliated person of McDonald currently requires such relief or currently intends to rely upon the requested relief.

5. McDonald believes that the prohibitions of section 9(a) in connection with the Conviction would be unduly or disproportionately severe and its conduct is not such as to make it against the public interest or protection of investors for the SEC to grant the requested relief for the following reasons:

a. The ORC provisions which form the basis of the Conviction apply to any person or organization required to register as an employer of a legislative agent. These are statutes of general applicability and none of these provisions relate solely to underwriters, brokers, or dealers.

b. The matters giving rise to the Conviction are unrelated to any of McDonald's activities regrading registered investment companies, including its position as principal underwriter and investment adviser to the Funds.

c. Upon learning that a report had not been filed accurately, McDonald took remedial actions, including the following: (i) it filed an amended report which accurately reported the expenditures which had been made, (ii) it reassigned direct responsibility for filing these reports to a senior management official who has overall responsibility for McDonald's financial reporting obligations, and (iii) it established a procedure for the prior review of all such filings.

d. McDonald has never previously filed an application for relief pursuant to section 9(c) and is not currently subject to any other judgment or order that would disqualify it under section 9(a), besides the Conviction described herein.

e. A denial of the requested orders would adversely affect the Funds and their shareholders. The Funds and their shareholders would incur additional costs and possible disruption of service if the Funds were required to retain one or more new principal underwriters and investment advisers and to seek related approvals of their boards of trustees and shareholders.

f. In addition, McDonald states that granting a sixty day temporary exemption would protect the interests of the Funds by allowing time for the orderly consideration of the application for permanent relief by the SEC.

g. If the requested exemption is not granted, section 9(a) would have an unduly and disproportionately severe impact on McDonald. The imposition of

these prohibitions would prohibit McDonald from acting as the principal underwriter or investment adviser for the Funds and other registered open-end investment companies in the future. McDonald states that acting in these capacities for the Funds is an integral part of McDonald's business as a full-service brokerage firm. McDonald states that it would lose substantial revenue if it were prohibited from conducting this business.

Applicant's Condition

Applicant agrees that the following condition may be imposed in any order of the SEC granting relief:

Any temporary exemption issued pursuant to this application shall be without prejudice to, and shall not limit the SEC's rights in any manner with respect to, any SEC investigation of, or administrative proceedings involving or against, applicant, including without limitation, the consideration by the SEC of the application for a permanent exemption from section 9(a) of the Act requested pursuant to this application or the revocation or removal of any temporary exemptions granted under the Act in connection with this application.

Temporary Order

The Division has considered the matter and, without necessarily agreeing with all of the facts represented or all of the arguments asserted by applicant, finds, in accordance with 17 CFR 200.30–5(a)(7), that it appears that (i) the prohibitions of section 9(a), as applied to applicant, may be unduly or disproportionately severe, (ii) applicant's conduct has been such as not to make it against the public interest or protection of investors to grant the temporary exemption, and (iii) granting the temporary exemption would protect the interests of the investment companies being served by applicant by allowing time for the orderly consideration of the application for permanent relief.

Accordingly, *it is hereby ordered*, under section 9(c), that applicant is granted a temporary exemption for sixty days from the provisions of section 9(a), effective forthwith, solely with respect to the Conviction, subject to the condition in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5217 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36908; File No. 265–19]

Consumer Affairs Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the Renewal of the Securities and Exchange Commission Consumer Affairs Advisory Committee.

SUMMARY: The Chairman of the Commission, with the concurrence of the other members of the Commission, has renewed the Securities and Exchange Commission's Consumer Affairs Advisory Committee (''Committee''). The Committee will advise the Commission on the interests and concerns of individual investors in the securities market.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265–19. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jonathan M. Gottsegen, Counsel to the Director, Office of Investor Education and Assistance, at (202) 942–7040; Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., the Securities and Exchange Commission has directed publication of this notice that Chairman Arthur Levitt, with the concurrence of the other member of the Commission, has renewed the ''Securities and Exchange Commission Consumer Affairs Advisory Committee.'' Chairman Levitt certifies that he has determined that the renewal of the Committee is necessary and in the public interest.

The Committee's charter directs the Committee to (1) advise the Commission on the interests and concerns of consumers and individual investors who participate, directly or indirectly, in the U.S. securities markets, and (2) to advise the Commission on how the Commission's existing and proposed rules and programs could be improved to provide better disclosure and protection to individual consumers and investors.

The Committee members represent the varied interests affected by the range of issues being considered. The Committee's membership includes persons who represent investors, issuers, market participants, independent public accountants, regulators and the public at large. The Committee's members represent a variety of viewpoints and have varying experience, and the Committee is balanced in terms of points of view, backgrounds and tasks. The Chairman of the Committee is Chairman Levitt.

The Committee will conduct its operations in accordance with the provisions of the Federal Advisory Committee Act. The duties of the Committee are solely advisory. Determinations of action to be taken and policy to be expressed with respect to matters upon which the Advisory Committee provides advice or recommendations shall be made solely by the Commission. The Committee will meet at such intervals as are necessary to carry out its functions. The Securities and Exchange Commission will provide necessary support services to the Committee.

The Committee will terminate on February 18, 1998 unless its charter is renewed for a further period in accordance with the Federal Advisory Committee Act. The Committee will also terminate on February 18, 1998 if the Chairman, with the concurrence of the other members of the Commission, determine that continuance of the Committee is no longer in the public interest.

Concurrent with publication of this notice in the Federal Register, a copy of the charter of the Committee will be filed with the Chairman of the Commission, the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Commerce. A copy of the charter will also be furnished to the Library of Congress and placed in the Commission's Public Reference Room for public inspection.

Dated: February 29, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–5158 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release NO. 34–36905; File No. SR–CSE–96–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Cincinnati Stock Exchange Relating To Including Within the Exchange's Minor Rule Plan Rule 4.1 Which Deals With the Maintenance of Records

February 28, 1996.

Pursuant to Section 19(b)(1) of the Secretary Exchange Act of 1934

(''Act''),[1] notice is hereby given that on February 8, 1996 The Cincinnati Stock Exchange (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. On February 27, 1996, the Exchange submitted Amendment No. 1 to the proposed rule change to the Commission.[2] 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 hereby corrects and amends Rule 8.14 regarding the imposition of fines for minor violations.

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

Rule 8.14[3] authorizes the Exchange, in lieu of commencing a disciplinary proceeding before a hearing panel, to impose a fine not to exceed $2,500, on any member, member organization, or registered or non-registered employee of a member organization for a minor violation of certain specified Exchange Rules.[4]

The purpose of the Rule 8.14 procedure is to improve the Exchange's ability to efficiently meet its statutory enforcement responsibilities by establishing a program for the imposition of fines for minor violations of Exchange Rules and by designating certain specified Rule violations as minor Rule violations.[5] In File No. SR–CSE–88–1[6], which initially set forth the provisions and procedures of Rule 8.14, the Exchange indicated that it would periodically prepare and announce to its members and member organizations a revised list of Exchange Rules for violation of which the Exchange may impose fines pursuant to Rule 8.14, as well as the fines that may be imposed for such violation.

The purpose of the proposed Rule change is to add Exchange Rule 4.1[7] to, and correct, Exchange Rule 8.14. Due to a typographical error, Exchange Rule 8.14, which includes a list of Rules to which the minor rule plan applies, referenced Rule 4.1 instead of Rule 4.2, which was added to the Exchange's minor rule plan in 1990.[8] At this time, the Exchange is correcting this reference and adding Rule 4.1, which relates to the maintenance of books and records, to such list. As a result, the list of Rules to which the minor rule plan applies will now reference both Rules 4.1 and 4.2

2. Statutory Basis

The Proposed rule change is consistent with Section 6(b)(6) of the Act[9] in that it will provide a procedure whereby member organizations can be ''appropriately disciplined'' in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of Sections 6(b)(7) and 6(d)(1) of the Act.[10]

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not 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 Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from February 8, 1996, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (e)(6) of Rule 19b–4 thereunder.[12]

At any time within 60 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

[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 corrected the CSE's filing to reference Section 6(b)(6) of the Act rather than Section 6(b)(5) thereof as the statutory basis for the proposal. Amendment No. 1 also redesignated the proposed rule change as a ''noncontroversial'' filing under Section 19(b)(3)(A) and Rule 19b–4(e)(6) thereunder. *See* Letter dated February 27, 1996, from Robert Ackermann, Vice President Regulatory Service, CSE, to Glen Barrentine, Senior Counsel/ Team Leader, SEC.

[3] Rule 8.14 was approved by the Commission on September 1, 1988. *See* Securities Exchange Act Release No. 26053 (September 1, 1988), 53 FR 34851 (September 8, 1988) (order approving File No. SR–CSE–88–1). A subsequent addition of a rule to the Rule 8.14 Violations List was made in Securities Exchange Act Release No. 27609 (January 11, 1990), 55 FR 1758 (January 18, 1990) (ordering approving File No. SR–CSE–89–60.

[4] CSE Rule 8.14, entitled Imposition of Fines for Minor Violation(s) of Rules, contains a list of minor rule violations as to which the Exchange may impose such fines. Although the CSE's Board of Trustees makes the initial determination of whether a CSE rule violation is ''minor'' for purposes of CSE Rule 8.14, this determination is subject to Commission approval pursuant to Section 19(d)(1) of the Act and paragraph (c)(2) of Rule 19d–1 under the Act. *See* Release No. 26053 n.5, *supra* note 2.

[5] *Id.*

[6] *Id.*

[7] CSE Rule 4.1 provides that ''each member shall make and keep books, accounts, records, memoranda and correspondence in conformity with Section 17 of the Act and the rules thereunder, with all other applicable laws and the rules, regulations and statements of policy promulgated thereunder, and with Exchange Rules.''

[8] CSE Rule 4.2 provides that ''every member shall furnish to the Exchange, upon request and in a time and manner required by the Exchange, current copies of any financial information filed with the Commission, as well as any records, files or financial information pertaining to transactions executed on or through the Exchange. Further, the Exchange shall be allowed access, at any time, to the books and records of the member in order to obtain or verify information related to transactions executed on or through the Exchange or activities relating to the Exchange.'' *See* Release No. 34–27609, *supra* note 3.

[9] 15 U.S.C. 78(b)(6).

[10] 15 U.S.C. 78f(b)(7) and 78f(d)(1).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4.

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 also will be available for inspection and copying at the principal office of The Cincinnati Stock Exchange. All submissions should refer to File No. SR–CSE–96–02 and should be submitted by March 27, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5154 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36901; File No. SR-DGOC-96-02]]

Self Regulatory Organizations; Delta Government Options Corp.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Addition of Euro Brokers Maxcor Inc. as an Interdealer Broker for Delta Government Options Corp.'s Repurchase Agreement Clearance System

February 28, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], notice is hereby given that on January 30, 1996, Delta Government Options Corp. (''DGOC'') 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 DGOC. 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 accommodate Euro Brokers Maxcor Inc. (''Euro Brokers'') as an interdealer broker in DGOC's over-the-counter clearance and settlement system for U.S. Treasury repurchase agreement (''repo'') transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DGOC 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. DGOC has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The System clears repo agreements that have been agreed to through the facilities of interdealer brokers that have been specially authorized by DGOC (''Authorized Brokers'') to offer their services to DGOC participants.[3] Currently, Liberty Brokerage, Inc. and RMJ Special Brokerage Inc. are Authorized Brokers. The purpose of the proposed rule change is to accommodate Euro Brokers as an Authorized Broker in DGOC's clearance and settlement system for repo trades.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions, and therefore, the proposed rule change is consistent with the requirements of the Act, specifically Section 17A of the Act, and the rules and regulations thereunder.[4]

(B) Self-Regulatory Organization's Statement on Burden on Competition

DGOC 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 Propose Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

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) of the Act[5] and Rule 19b-4(e)(4),[6] in that the proposal effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. 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 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 communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at DGOC. All submissions should refer to File No. SR-DGOC-96-02 and should be submitted by March 27, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5150 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

---

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified parts of these statements.

[3] For a complete description of the DGOC's repo clearance system, see Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[4] 15 U.S.C. 78q–1 (1988).

[5] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[6] 17 CFR 240.19b-4(e)(4) (1995).

[7] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36897; File No. SR–DTC–95–27]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Proposed Rule Change Seeking to Implement the Initial Public Offering Tracking System

February 27, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on January 2, 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. On January 31, 1996, DTC amended the filing to clarify the proposed rule changes.[2] 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

DTC proposes to implement an Initial Public Offering (''IPO'') Tracking System that will allow lead managers (also referred to as managing underwriters) and syndicate members[3] of equity underwritings to monitor ''flipping''[4] of new issues in an automated book-entry environment.

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.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC is proposing to implement its IPO Tracking System to facilitate the immobilization of newly underwritten equity securities at the time of issuance and to establish the means to effectively track IPOs in a book-entry environment.[6] Currently, many IPOs are distributed entirely in physical, certificated form outside the depositories so that tracking may be accomplished by using certificate numbers to monitor the movements of the securities. This form of tracking is a cumbersome and costly process.

Under DTC's proposed rule change, the lead manager will initiate the IPO Tracking System by notifying DTC of its election to track an issue by 4:00 p.m. two days prior to the closing date. On the closing day of the issue, the underwriting department for the IPO will place the outstanding shares in the lead manager's IPO control account at DTC.[7] Allocation of these shares by the lead manager will depend upon the nature of the ultimate buyer.

Institutional Trade

For an institutional customer, the lead manager will move the shares from its IPO control account into the selling group broker-dealers' IPO accounts at DTC via initial distribution deliver orders (''DOs'').[8] The lead manager and selling group may then distribute the institutional portion of the initial distribution to agent banks or prime brokers[9] through DTC's Institutional Delivery (''ID'') system or by submitting a DO with an Id agent bank identifier.[10] The DO or ID confirm will contain the Agent Internal Account (''AIA'') number and the Broker Internal Account (''BIA'') number,[11] which will be captured in order to appropriately populate the IPO database. The selling group member's participant number will be stored in the IPO database along with the BIA number to fully identify the customer to the selling group member.

Agent banks will not have IPO control accounts; therefore, all activity into and out of the agent banks' fee accounts will be monitored to keep track of customer purchases and sales. This monitoring process will ensure that all customer sales are properly reported. When an ID confirm is generated for a sale in a tracked issue, DTC will validate the AIA number on the confirm against the AIA number in the IPO database. A warning message will be produced on the confirmation and on the affirmed confirmation for AIA numbers that do not match AIA numbers contained in the IPO database. Similarly, settlement authorization or DO processing will be prohibited if a match to an AIA number in the IPO database is not found.[12] In order to settle the transaction, the agent bank must either adjust the IPO database using the IPO Customer-Level Adjustment function or submit a DO with an AIA number that matches the IPO database.

Unlike agent banks, prime brokers will have IPO control accounts at DTC. Upon receipt of an initial distribution transaction, shares will be moved to the prime broker's IPO control account, and the IPO database will be updated with customer-level detail information from

---

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Memorandum from Richard B. Nesson, General Counsel, DTC, to Christine Sibille, Senior Counsel, Division of Market Regulation, Commission (January 31, 1996).

[3] Syndiate members are a group of broker-dealers that agree to purchase a new issue of securities from an issuer under an underwriting agreement. The selling group is a group of broker-dealers that market the new issue to the public. Selling group broker-dealers may purchase from a syndicate member or may be a syndicate member.

[4] Flipping occurs when a syndicate's lead manager is supporting the IPO with a stabilization bid (intended to keep the price of the issue from dropping below its initial offering price), and securities that had been distributed to investors are resold by those investors back to the syndicate. The lead manager may wish to identify flipped transactions so that underwriting concessions can be recovered from the appropriate syndicate members.

[5] The Commission has modified the text of the summaries prepared by DTC.

[6] Under the rules of most national securities exchanges and the National Association of Securities Dealers (''NASD''), in order to be listed for trading on a national securities exchange or to be eligible for inclusion in Nasdaq issuers must represent that the CUSIP number identifying the securities to be listed on such exchange or to be eligible for inclusion in Nasdaq has been included in the file of eligible issues maintained by a securities depository registered as a clearing agency under Section 17A of the Act. However, prior to the availability of a flipping tracking system, the managing underwriter may delay the date a security is deemed depository eligible for up to three months after trading has commenced in the security Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909. Typically, transactions in depository eligible securities between financial intermediaries and between a financial intermediary and a customer with delivery versus payment privileges must be settled by book entry. Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679.

[7] To accommodate IPOs which require that a portion of the shares be distributed to foreign brokers as syndicate members, the initial distribution from the primary lead manager to its second participant account (*i.e.*, co-reporting relationship) at DTC or to another co-manager's participant account (*i.e.*, co-manager relationship) will be identified by the lead manager using a new reason code.

[8] With tracked issues, the lead manager must deliver shares directly into the account of the broker-dealer that will either hold the shares or transfer the shares to a custodian. All other share movements are registered as flips. DTC will not know if a receiving broker-dealer is a syndicate member or has purchased shares through a syndicate member.

[9] A prime broker is a broker-dealer that acts as custodian for institutional customers and uses DTC's ID system (acting as an agent bank).

[10] Alternatively, the lead manager may deliver directly to the custodian of the selling group member's institutional clients. This process is referred to as directed concessions.

[11] The AIA number is the internal number used by the custodian (*i.e.*, agent bank or prime broker) to identify the institutional client. The BIA number is the internal account number that the selling group broker-dealer uses to identify the institutional client.

[12] As a result, the transaction will be marked as a fail.

the ID trade information. The IPO Tracking System will automatically generate releases of IPO positions to the prime broker's free account for affirmed ID trades of secondary market transactions when the AIA number on the confirmation matches an AIA number contained in the IPO database. It is the release of the IPO position that results in a report of a flip.

When an institutional customer has positions in the same security purchased in both an IPO and in the market, the system will use the secondary market position to complete a delivery before using shares received during the initial distribution. Also, when a customer has received shares from multiple broker-dealers and subsequently sells such shares, the system will assign the ''flipped'' shares on a prorated basis among the selling group members servicing that customer.

Retail Trade

For a retail distribution, the lead manager will move the securities from its IPO control account to the IPO control account of the selling group broker-dealer for the retail customer. Broker-dealers may populate the IPO database with their own customer-level detail information for retail accounts by entering ''Add Customer-Level Detail'' transactions directly into the IPO Tracking System or may submit daily formatted trade files. Broker-dealers will not be required to provide customer level detail. Broker-dealers also may adjust such information using the IPO Customer Level Adjustment function.

Upon the sale of a position that was established in the initial distribution, the selling group broker-dealer will release the shares from its IPO control account to its free account by using the IPO release capability available using DTC's participant terminal system (''PTS''), computer-to-computer facilities (''CCF''), or main frame dual host (''MDH''). The release instructions will include number of shares, trade date, and price. If the broker-dealer has previously assigned a customer internal account number to the IPO shares, the release instructions must identify such number which must match a previously established IPO database entry or the transaction will be rejected. Upon DTC's acceptance of the release instructions, the shares will move from the broker-dealer's IPO control account to the participant's free account. It is this movement that will mark the activity as a flip. All deliveries and Continuous Net Settlement (''CNS'') short positions will be satisfied from the participant's free account.

Correspondent Relationships

When an introducing broker is acting as a selling group member (*i.e.*, it is not a DTC participant), its shares are held by its designated clearing agent, which may be a broker-dealer or agent bank. When distributing these shares, the lead manager identifies the transaction as a correspondent delivery by entering the Correspondent Account (''CA'') number on the DO.[13] The IPO Tracking System will capture the CA number from the delivery to the clearing agent. The CA number will be stored in the IPO database with the clearing agent's participant number to fully identify a correspondent (*i.e.*, the introducing broker) as a selling group member. When the ultimate purchaser is a retail customer, clearing agents may enter customer-level details into the IPO database on behalf of correspondents. When the ultimate purchaser is an institution, clearing agents will be able to use the ID system or a properly identified DO to deliver shares as part of the initial distribution to a custodian. Subsequent share movements for correspondents, either sales or account transfers, will require use of the CA number and will be subject to the same release rules that apply to direct DTC participants.

Physical Certificates

DTC will not accept deposits of physical certificates in tracked issues. Participants may request a physical certificate through a withdrawal-by-transfer (''WT'') request, which will be processed from the first settlement day of the issue.[14] DTC's automated WT system will be modified to allow input of the AIA, CA, and ID agent bank numbers. If the numbers entered do not match those in the IPO database, the WT will be rejected. If a WT request exceeds the position in the agent bank's account, the request will be rejected and an error message will be generated. For agent banks, the IPO Tracking System will process WT requests first using shares which were not part of the initial distribution and then shares which were part of the initial distribution provided there is sufficient position.

For shares held by broker-dealers, the WT request must contain customer level detail information. DTC will process WT requests using shares in the IPO control account with a matching customer number. When there is a customer number match in the IPO database, DTC will generate a release from the IPO account and will report it on the lead manager's and selling group member's reports as a WT even if the WT is not processed. The released IPO shares will be combined with free account shares, and the WT will be processed from the free account. If the broker-dealer's IPO control account does not contain shares with a matching customer number, the WT will be processed using shares from the free account provided there is sufficient position.

Stock Loan

Participants will be able to process stock loan DOs using stock loan reason codes. Participants will not have to enter individual account numbers (*i.e.*, AIA numbers) to match the IPO database. For brokers, IPO tracked shares do not have to be released by participants to execute stock loans because the IPO system will automatically release these shares.

Customer Account Transfer

Customer account transfers must be processed by the new IPO customer account transfer function for tracked IPO issues. The function allows the deliverer (*i.e.*, the broker-dealer or agent bank) to enter the customer internal account number from which the shares are coming, its participant number, and customer internal account number to which the shares are going. To expedite this process, broker-dealers will be notified by NSCC's Automated Customer Account Transfer system that the issue is a tracked issue and a trade-for-trade ticket will be produced. The transaction can then be entered through the IPO customer account transfer function.

Reclamation

Initial distribution deliveries (*i.e.*, deliveries from the lead manager to a selling group member) that are reclaimed and matched will return to the account from which they originated (*i.e.*, the IPO control account). Reclamations done for shares which were released from a selling-group broker-dealer's IPO control account or a prime broker's control account to a free account to satisfy an obligation on the secondary market will be returned to the delivering participant's free account and such shares will still be registered as flipped. When a reclamation occurs for an agent bank, the reclaimed DO will be matched to the original delivery, and

[13] The CA number is the clearing firm's internal number for the introducing broker.

[14] A WT is used when participants need to withdraw physical stock or registered bond certificates from DTC registered in a name other than DTC's nominee name, Cede & Co. DTC permits participants to withdraw securities in round lots, odd lots, or mixed lots registered in a name designated by the participant.

the information on the IPO database will be reversed (*i.e.*, no flip will be shown).

Over Subscription

Generally, when an issue is oversubscribed the lead manager will purchase securities in the secondary market. These shares will reside in the lead manager's free account. The lead manager will have the option of delivering oversubscribed shares from its free account to selling group members' IPO control accounts or to its IPO control account for its own customers' shares.

Memo Segregation

DTC will enhance memo segregation processing for IPO tracked issues by allowing participants to enter memo segregation instructions with share quantities that represent the combined total of their free and IPO shares.[15] As DTC processes DOs, the share quantity of the memo segregation instruction will be subtracted from the combined share total of the free account and the IPO account and then compared against the quantity on the DO to determine if the delivery can take place. The shares will be removed from the participant's free account.

Termination of Tracking

During the tracking period, the lead manager and selling group members will be able to obtain information on the flipping of shares through hard copy or machine readable daily reports or through a new PTS inquiry function. The lead manager's report combined with market conditions will assist the lead manager in determining when to instruct DTC to discontinue IPO tracking. DTC will discontinue tracking an IPO on the earlier of the business day following DTC's receipt of a termination request from the managing underwriting or 120 calendar days from the date trading commenced. Once IPO tracking is discontinued, any shares remaining in a broker-dealer's IPO control account will be moved to its free account.[16]

At the close of the tracking period the lead manager will receive a final report detailing the selling group members (including the clearing agents) whose customers have flipped. The report will include sale price, trade date, and number of shares as well as the clearing agent's participant number and the CA number. The report also will show: (1) Outstanding CNS short positions for selling group members long in the IPO control account, (2) a total aggregate of all open CNS commitments, (3) WT transfers, and (4) outstanding stock loans by agent bank or broker-dealer. The lead manager's report will not include customer level detail information (*i.e.*, BIA numbers, AIA numbers, or customer internal account numbers).

Selling group members (and lead managers, as part of the syndicate) will receive a report of their institutional or retail customers' sale transactions.[17] Such report will include the original BIA number, the identity of the prime brokers or agent banks, and the AIA number or for retail customer trades, the customer internal account number. This will provide sufficient information for selling group members to identify the clients that have potentially flipped shares during the tracking period.

DTC believes the proposed rule change is consistent with Section 17A of the Act 18 and the rules thereunder because it will promote the immobilization of securities as well as efficiency and safety in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no 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

In 1991, the U.S. Working Committee of the Group of Thirty [19] established a focus group to examine how settlement of IPOs could be processed in a book-entry environment while still providing lead managers with the ability to track flipping. Recognizing that no tracking system would succeed without support from both broker-dealers and agent banks, the focus group established a Flipping Design Committee composed of senior people from a diverse group of broker-dealers and agent banks. Once the design was proposed, a Design Implementation Committee composed of broker-dealers and agent banks was established to finalize the details of the system. The Design Implementation Committee completed its work in December 1994.

The IPO Tracking System has been described in detail in several Important Notices to participants. DTC received several comments on the proposal and has implemented, or anticipates implementing changes to the system as a result of those comments.[20] The development of the IPO Tracking System has been supported by the SIA Clearance and Settlement Committee, SOD Regulatory and Clearance Committee, U.S. Working Committee of the Group of Thirty, New York Clearing House DTC Matters Committee, Bank Depository User Group, and The Cashiers' Association of Wall Street, Inc.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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, 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

[15] The memo segregation function (''MSEG'') creates a memo position within the participant's free account enabling participants to protect customer securities.

[16] DTC will automatically release the shares from the IPO control account to the participant's DTC subaccount segregation account at the close of the tracking period when requested in writing as a standing instruction by individual participants that use the subaccount segregation service. Without this standing instruction, DTC will release shares residing in the IPO control account directly into the participant's free account at the end of the tracking period.

[17] Syndicate members will not see information regarding their selling group broker-dealer customers.

[18] 15 U.S.C. 78q–1 (1988).

[18] The Group of Thirty, established in 1978, is an international, nonprofit organization charged with broadening the understanding of international economic and financial issues, exploring the international repercussions of decisions taken in public and private sectors, and examining the choices available to policymakers. The U.S. Working Committee of the Group of Thirty is an organization made up of representatives of broker-dealers, banks and financial intermediaries charged with analyzing the existing clearance and settlement systems in the U.S. in light of recommendations made by the Group of Thirty.

[20] Specifically, DTC will have the memo segregation processing feature in place prior to implementation of the IPO Tracking System.

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–95–27 and should be submitted within March 27, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5155 Filed 3–5–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36902; International Series Release No. 940; File No. SR–ISCC–95–06]

Self-Regulatory Organizations; International Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to Global Clearance Network Service

February 28, 1996.

On December 2, 1995, the International Securities Clearing Corporation (''ISCC'') filed a proposed rule change (File No. SR–ISCC–95–06) with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on January 5, 1996, to solicit comments from interested persons.[2] No comments were received. As discussed below, this order approves the proposed rule change.

I. Description

ISCC has established a foreign clearance, settlement, and custody service known as a Global Clearance Network (''GCN'') in conjunction with certain banks, trust companies, and other entities. Presently, ISCC has established GCN relationships with Citibank, N.A.; Standard Bank of South Africa; Westpac Custodian Nominees Limited of Australia; Westpac Nominees-NZ-Limited; and S.D. INDEVAL, S.A. de C.V.[3] The proposed rule change accommodates Standard Chartered Bank (''SCB'') as an additional GCN service provider.

SCB has provided clearance, settlement, and custodial services in the Asian-Pacific Region for over forty years and has had a banking presence in this region for over one hundred and forty years. The value of overall assets under SCB's administration is approximately US $55 billion. ISCC members will be offered clearance, settlement, and custody services in the Philippines, South Korea, and Taiwan through a division of SCB, Standard Chartered Equitor Group (''The Equitor Group'').[4]

The Equitor Group provides clearance and custody services in fifteen markets in the Asian-Pacific Region. The Equitor Group established a branch office in the Philippines in 1872, which has provided local custody services since 1935 and currently has US $1.12 billion in assets under custody. The Equitor Group established a branch office in South Korea in 1984, which has provided local custody services since 1991 and currently has US $1.47 billion in assets under custody. SCB has represented that acting through its branches it meets the requirements of Rule 17f–5 under the Investment Company Act of 1940 to be an eligible foreign custodian.[5] The Equitor Group established a branch office in Taiwan in 1985, which has provided local custody services since 1992 and currently has U.S. $810 million in assets under custody.

In the future, ISCC may offer clearance, settlement, and custody services through SCB in other countries such as Bangladesh, Hong Kong, Indonesia, Japan, Malaysia, Pakistan, Shanghai, Shenzhen, Singapore, Sri Lanka, and Thailand. In Malaysia, SCB operates through its wholly owned subsidiary, Standard Chartered Bank Malaysia Berhad (''SCBM''). SCB has received an exemptive order under Rule 17f–5 on behalf of SCBM.[6]

SCB has entered into an agreement with ISCC pursuant to which SCB has agreed to provide access to its clearance, settlement, and custody services to GCN participants that qualify to be customers of SCB. ICB has agreed to provide the services at reduced prices. ISCC will not provide any volume guarantees to SCB. ISCC will collect fees from the participants on behalf of SCB.[7] The agreement will be terminable by mutual agreement of the parties or on ninety days prior notice.

II. Discussion

The Commission believes the proposal is consistent with the requirements of Section 17A of the Act, and therefore, is approving the proposal.[8] The Commission states in the initial order granting ISCC temporary registration as a clearing agency that the development of efficient and comparable automated national and international clearance, settlement, and payment systems is one of the more important international goals.[9] The Commission noted that without established international systems, broker-dealers and their institutional customers often are forced to devote substantial resources to each task related to trade settlement and must deliver securities by physical means. The Commission also found that clearing linkages facilitate cross-border settlements without compromising the essential soundness and integrity of each national clearing and settlement system.

The GCN service offers participating ISCC members advantages in securities processing including central access for processing trades, standardized operating procedures, receipt of uniform reports on their trades, and reduced costs. The addition of SCB as a GCN provider gives ISCC participants access to settlement services in areas not currently covered by the GCN service and thus increases the utility of the GCN service. Therefore, the Commission believes the proposal is consistent with Section 17A(b)(3)(F) of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions.[10]

III. Conclusion

For the reasons stated above, the Commission finds that ISCC's proposal is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the

---

[20] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. § 78S(B) (1988).

[2] Securities Exchange Act Release No. 36656 (December 29, 1995), 61 FR 430.

[3] Securities Exchange Act Release Nos. 29841 (October 18, 1991), 56 FR 55960; 35392 (February 16, 1995), 60 FR 10415; 36339 (October 5, 1995), 60 FR 53447; and 36791 (January 30, 1996) 61 FR 4508).

[4] The Equitor Group is not a separate legal entity.

[5] Letters from Julie Beyers, Associate Counsel, ISCC, to Michele Bianco, Division of Market Regulation, Commission (December 12, 1995 and December 13, 1995).

[6] Letter from Julie Beyers, Associate Counsel, ISCC, to Michele Bianco, Division of Market Regulation, Commission (December 13, 1995). Investment Company Act of 1940 Release No. 20019, International Series Release No. 628 (January 14, 1994).

[7] ISCC is not responsible for fees not rendered to SCB by participants.

[8] 15 U.S.C. 78q–1 (1988).

[9] Securities Exchange Act Release No. 26812 (May 12, 1989), 54 FR 21691.

[10] 15 U.S.C. 78q–1(b)(32)(F) (1988).

[11] 15 U.S.C. 78s(b)(2) (1988).

proposed rule change (File No. SR–ISCC–95–06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5151 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36900; File No. SR–NASD–96–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Issuer Hearing Fees

February 28, 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 22, 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 NASD is herewith filing a proposed rule change to revise the issuer hearing fee under Part IV of Schedule D to the NASD By-Laws.[1] Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Part IV

Listing Fees

* * * * *

Issuer Hearing Fee

I. Hearing Fee

1. Each issuer that applies for an exception under Article IX of the Code of Procedure to the requirements of Parts II or III of Schedule D to the By-Laws shall pay a fee to the Nasdaq Stock Market, Inc. to cover the cost of considering such application as follows:

(a) where the application is to be considered on the basis of written submissions from the issuer, *$1,400* [$500]; or

(b) where the application is to be considered on the basis of an oral hearing, whether in person or by telephone, *$2,300* [$1,000].

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 it 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) I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Parts II and III of Schedule D to the NASD By-Laws set forth the requirements applicable to issuers for initial and continued inclusion in the Nasdaq Stock Market. Pursuant to Article IX of the NASD Code of Procedure, issuers may apply for an exception to these requirements, which shall be considered by a hearing panel designated by the Board of Governors. The purpose of the proposed rule change is to increase the hearing fee from $500 to $1,400 for written applications and from $1,000 to $2,300 for oral applications.

The costs associated with the hearing process include fixed costs for all applications and additional variable costs for oral hearing applications. The increased fees relate directly to these costs and reflect the recovery of the fixed costs evenly across all hearing applicants and the recovery of the additional variable costs only from oral hearing applicants. The fees are designed to be revenue neutral based on the number of exception applications for the most recent year.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act[2] in that the fee increases are allocated equitably to provide a forum for issuers seeking to retain a Nasdaq listing or issuers seeking to be listed on Nasdaq under an exception to current listing standards. The new fees are intended to directly offset the costs associated with the hearing process, and are distributed among issuers based on the type of hearing requested.

(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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 27, 1996.

---

[12] 17 CFR 200.30–3(a)(12) (19950.

[1] Pursuant to a new rule numbering system for the NASD Manual anticipated to be effective no later than May 1, 1996, this rule will become Rule 4530. *See* Exchange Act Release No. 36698 (January 11, 1996), 61 FR 1419 (January 19, 1996), order approving new rule numbering system.

[2] 15 U.S.C. 78*o*–3.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5156 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36907; File No. SR–NSCC–96–01]

Self-Regulatory Organization; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Establishing Systemized, Standard Prices for Transfers of Non-Continuous Net Settlement Assets Through the Automated Customer Account Transfer Service

February 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 5, 1996, the National Securities Clearing Corporation (''NSCC'') 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 NSCC. On February 8, and 20, 1996, NSCC filed amendments to the proposed rule change.[2] 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.

NSCC proposes modifying its rules to coincide with its practice of establishing systemized, standard default prices for non-Continuous Net Settlement (''CNS'') assets submitted by a member for transfer through NSCC's Automated Customer Account Transfer Service (''ACATS''). Such prices are to be based on the type of asset being transferred.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC 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

The purpose of the proposed rule change is to modify NSCC's rules to coincide with its practice of establishing systemized, standard default prices based on asset type for assets not eligible for CNS submitted by Members for transfer through ACATS. NSCC, through ACATS, currently provides an automated and standardized service for the accurate and timely transfer of assets in a customer account from one brokerage firm to another.[4]

When a customer wants to transfer his or her account to a new broker-dealer (''receiving broker-dealer''), the receiving broker-dealer submits through NSCC a transfer initiation request form to the broker-dealer holding the customer's assets (''delivering broker-dealer''). Within three business days, the delivering broker-dealer must submit to NSCC a list of customer assets held at the delivering broker-dealer. The list must include prices assigned to the non-CNS eligible assets. Transfer of the account generally will take place four business days later.

On settlement date, NSCC automatically debits the delivering broker's settlement account at NSCC with the market value of the assets being transferred through ACATS and credits the receiving broker's settlement account with the same amount. The resulting settlement obligations will appear on the members' initial settlement statements issued in the afternoon. When the non-CNS-eligible assets are delivered through NSCC's envelope delivery service, NSCC will then credit the delivering broker's account at NSCC with the value of those assets and will debit a corresponding amount from the receiving broker's account.[5] Thus, the delivering broker's initial settlement statement will reflect both the debit from the initial ACATS request and a corresponding credit from the delivery of assets resulting in no change to such member's overall settlement obligations. If the assets are not delivered, the delivering broker's settlement bank will be debited the assigned value of the assets at the end-of-day settlement. These funds will be creditede back to the delivering broker when such broker delivers the customer's assets.

CNS assets submitted for transfer through the ACATS system are systematically priced. However, an asset value needs to be assigned to any non-CNS assets (*e.g.*, limited partnerships, mortgaged backed securities, zero coupon bonds, foreign securities, U.S. government and U.S. agency securities, and thinly traded municipal bonds) submitted for transfer through ACATS. NSCC will ascribe non-CNS assets a value by using a pricing service.[6] If there is no price available from a pricing service, NSCC will assign a value based on the higher of (i) the price submitted by the delivering broker or (ii) the price indicated by an industry defined default price matrix. The default price matrix will employ security category indicators and will specify a default price for each identified security category. For example, domestic stock will be valued at $1.00 per share, and municipal bonds will be valued at $85 per $100 principle amount. Once the default value is established, changes by participants are not permitted.

The pricing of additional assets being transferred through ACATS will provide ACATS users with standardized default pricing based on asset type. This method of pricing will decrease discrepancies with respect to asset valuation by reducing exposure to the delivering broker due to the overvaluation of assets and by reducing exposure to the receiving broker due to the undervaluation of assets.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder because establishment of systemized standard default prices for non-CNS assets transferred through ACATS will facilitate the prompt and accurate clearance and settlement of

---

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letters from Julie Beyers, Associate Counsel, NSCC, to Christine Sibille, Division of Market Regulation, Commission (February 7 and 15, 1996),

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] For a complete description of ACATS, refer to Securities Exchange Act Release No. 34879 (October 21, 1994), 59 FR 54229 [File No. SR–NSCC–94–13] (order approving a proposed rule change modifying ACATS). *See also* NSCC Rule 50.

[5] Assets delivered through NSCC's envelope delivery service must be submitted by 11:3 a.m.

[6] NSCC will use the following pricing services (listed in order of preference). Equities: The New York Stock Exchange, the American Stock Exchange, NASDAQ, Vancouver Stock Exchange, average OTC comparison system price, Interactive Data Financial Times information, previous day's system price, or last available price in system. Bonds: Average price in the Bond Comparison System for trades compared on T or T+1, average price in the Bond Comparison System for trades compared on T+2, average price in the Bond Comparison System for trades compared on T+3 or older, Interactive Data Financial Times information, previous day's system price, last available price in system, or for municipal bonds only, if such price is five days or older, the price obtained from J.J. Kenny S&P.

[7] 15 U.S.C. § 78q–1 (1988).

account transfers from one brokerage firm to another.

B. Self-Regulatory Organization's Statement on Burden on Competition.

NSCC does not perceive that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, 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 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 NSCC. All submissions should refer to File No. SR–NSCC–96–01 and should be submitted by March 27, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5149 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36904; File No. SR–NYSE–96–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendment of Exchange Rule 460.10

February 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 5, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, and on February 26, 1996, filed Amendment No. 1 to the proposed rule change,[2] 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 proposed rule change consists of amendments to Exchange Rule 460.10 to modify certain prohibitions on the ownership by specialists of securities in which they are registered (''specialty securities'') and to modify the prohibition on business transactions specialists may have with the issuers of specialty securities.

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 amend Rule 460.10 to modify certain prohibitions on the ownership of specialty securities and business transactions specialists may have with the issuers of specialty securities.

a. Ownership Restrictions

NYSE Rule 460.10 prohibits a specialist[3] from acquiring more than 10% of the outstanding shares of any equity security in which the specialist is registered. If a specialist acquires 5% or more of an equity issue in which he or she is registered, notice is required to be given to Market Surveillance, and the specialist may be directed to reduce the position below that level.

The restrictions on beneficial ownership codified in the rule are intended to ensure that specialists do not enter into a control relationship with an issuer in whose securities the specialist is registered, such that the specialist's status as a significant shareholder may create conflicts of interest with respect to the specialist's affirmative and negative obligations to maintain a fair and orderly market in the security.

The language of the rule refers specifically to ''any equity security'' in which the specialist is registered, although a specialist may be registered in a particular security where a position in excess of the 5% and 10% parameters would not give rise to the control relationship/potential conflict of interest issue noted above. For example, a specialist registered in both a warrant and the underlying common stock could convert a 10% position in the warrant tinto the common stock, but the resulting position in the common stock would not approach the 10% control relationship threshold. Other examples could be found in convertible securities, or American Depository Receipts or Global Depository Receipts, where conversion of the security would result in a small position in relation to the overall number of shares outstanding in the common stock. The proposed amendment would delete the 10% threshold for such convertible

---

[8] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. § 78s(b)(1).

[2] *See* Letter from Donald Siemer, Director, Market Surveillance, NYSE to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated February 23, 1996.

[3] By its terms, Rule 460.10 apply to the specialist, his or her member organization or any other member, allied member or approved person in such member organization or officer or employee thereof, individually or in the aggregate.

securities, provided that, upon conversion, the position in the underlying common stock does not exceed 10% of the issue.[4]

Another example of a security in which 10% ownership would not present a control issue is presented by certain investment company units (the ''units''). In File No. SR–NYSE–95–23,[5] the Exchange described certain entities organized as open-end management investment companies, which would hold securities comprising, or otherwise based on or representing an investment in, an index or portfolio of securities that represent the equity markets of a country. Each unit represents ownership of a portion of a portfolio of securities corresponding to an underlying ''country index,'' as determined by a consortium of investment concerns and the Institute of Actuaries. Specialists may be required to enter into transactions in these securities to effect creation or redemption of the units, and these transactions may result in an ownership of greater than 10% of an issue of units. Pursuant to changes to Rule 460.10 that have been proposed in File No. SR–NYSE–95–23,[6] the specialists' activities in these transactions, however, would be subject to facilitation of their market-making responsibilities. In addition and as described more fully below,[7] Rule 460.10, as proposed to be amended hereby, would allow the specialist to engage in such transactions only according to the same terms and conditions as every other investor. The Exchange believes that given the open-ended nature of these entities in that securities will be issued on a continuous basis, the issue of control by a specialist would not be relevant. The proposed amendment would delete the 10% threshold for certain investment company units, provided that, the redemption of such units would not result in a position, directly or indirectly, in any equity security in which the specialist is registered exceeding the 10% threshold.[8]

The proposed amendment would also exempt from the 10% threshold, with Exchange permission, a specialist registered in a security where the corporate control relationship issue is absent, such as a foreign currency warrant, which trades in relationship to the value of that underlying currency, or an index warrant, which trades in relationship to the value of that underlying index. With respect to these securities, however, the specialist would not be permitted to acquire a position of more than 25% of the issue.

In these situations, the Exchange believes that the specialist should be permitted, to the extent consistent with the specialist's market making responsibilities, to exceed the 10% parameter in Rule 460.10 without being required to liquidate its position in the security.

b. Business Transactions

Rule 460.10 also prohibits a specialist, his or her member organization or any other member, allied member, approved person in such member organization or officer or employee from engaging in any business transaction with any company in whose stock the specialist is registered.[9] This prohibition is designed to prevent a potential conflict of interest with the specialist's market making obligations and any status he or she might attain through business dealings with the issuer. This prohibition, however, may be read to cover any type of business dealing between a specialist and an issuer, including one where the service or good is routinely available to the public and confers no special status to the recipient beyond that of a consumer. The Exchange proposes to amend the rule to permit the receipt of such routine business services by a specialist or other party listed in the rule. For example, a specialist organization may wish to contract for commercial insurance services from one of its specialty stock companies. The amended rule would permit such a transaction, as long as the type of service is generally available to other business entities.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.[10]

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(8) that an Exchange have rules that do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[11] The Exchange does not believe that market makers in derivative securities in other market centers are subject to restrictions such as those contained in Rule 460.10. Thus, the proposed rule change is consistent with these objectives in removing a barrier to competition without compromising investor protection or the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The New York Stock Exchange does not believe that the proposed rule change will impose any inappropriate 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

No written comments were either solicited or received.

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.

[4] The proposed rule does not change the requirement that if a specialist acquires 5% or more of an equity issue in which he or she is registered, he or she must give notice to market surveillance.

[5] *See* Securities Exchange Act Release No. 36032 (July 28, 1995), 60 FR 40403 (Aug. 8, 1995) (File No. SR–NYSE–95–23).

[6] In Release No. 34–36032, *supra,* note 5, the Exchange proposed, among other matters, to amend Rule 460.10 to provide that, notwithstanding the prohibition of Rule 460.10 on specialist engaging in any business transaction with any company in whose stock the specialists is registered, specialists registered in a security issued by an investment company may purchase and redeem the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market in the subject security.

[7] *See* part II. A. 1. b. below.

[8] For purposes of Rule 460.10, on investment company unit refers to a security that represents an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity, all as more completely described in proposed Section 703.16 of the Exchange's Listed Company Manual, which is proposed to be amended in Release No. 34–36032, *supra,* note 5.

[9] Under certain circumstances, NYSE Rule 98 affords exemptive relief to approved persons of a specialist organization from restrictions found in various NYSE rules, including certain provisions of NYSE Rule 460. *See* Securities Exchange Act Release No. 36043 (Aug. 1, 1995), 60 FR 40218 (August 7, 1995) (Order approving File No. NYSE–95–21).

[10] 15 U.S.C. § 78f(b)(5).

[11] 15 U.S.C. § 78f(b)(8).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–01 and should be submitted by March 27, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5153 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36899; File No. SR–PHILADEP–95–10]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the Customer Name Mailing Transfer Return Procedures

February 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 11, 1995, the Philadelphia Depository Trust Company (''PHILADEP'') 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 PHILADEP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHILADEP proposes to modify its Customer Name Mailing (''CNM'') transfer return procedures to allow a participant to have securities certificates that are registered in a customer's name deposited directly into the participant's PHILADEP account.

II. Self-Regulatory Organization's Statements of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PHILADEP included statements concerning the purpose of and the 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. PHILADEP has prepared summaries, as set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify the CNM transfer return procedures. Transfer return is the method by which PHILADEP returns to participants securities that the participant requested to be registered in customer name but for which the customer is no longer the beneficial owner. A typical transfer return situation arises when a customer requests that securities certificates be registered in its name. The participant notifies PHILADEP's CNM department of its request, and the CNM department notifies the appropriate transfer agent. The transfer agent issues the securities certificates in the customer's name and sends them back to PHILADEP. PHILADEP then mails the securities certificates to the customer.[3] If the participant notifies PHILADEP before PHILADEP has mailed the securities to the participant's customer that the customer has sold the securities, PHILADEP employs the transfer return procedures and returns the certificates directly to the participant. At this point, if the participant wants to deposit the certificates in its PHILADEP account, it must return the certificates to PHILADEP with the appropriate deposit information. PHILADEP will send the certificates to the transfer agent to have the certificates reregistered in PHILADEP's nominee name (*i.e.*, PHILADEP & Co.). The transfer agent will send the securities back to PHILADEP, and PHILADEP will deposit them in the participant's PHILADEP account.

The new transfer return procedures eliminate the need for PHILADEP to return to the participant securities certificates that the participant wants deposited in its PHILADEP account. Under the proposed modifications to the transfer return procedures, a participant now will be able to have the securities directly deposited into its PHILADEP account without first having the securities returned to it. For those securities registered in customer name that a participant chooses to directly deposit, the participant will send to PHILADEP a deposit ticket along with a Medallion Guaranteed letter of indemnity or a signed stock or bond power. PHILADEP will send the securities, which are registered in the participant's customer's name, to the transfer agent to be reregistered in the name of PHILADEP & Co. The transfer agent will send the securities back to PHILADEP, and PHILADEP will deposit them into the participant's PHILADEP account.

PHILADEP participants can choose this alternative transfer return procedure by including a letter ''D'' in the transmission with the Hold Mail Request. The letter ''D'' indicates to PHILADEP that the participant would like the item directly deposited into their deposit account at PHILADEP.

PHILADEP believes the proposed rule change is consistent with the requirements of the Act and specifically with Sections 17A(b)(3)(A) and (F)[4] because it fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and further assures the safeguarding of securities which are in the custody or control of PHILADEP.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not believe that the proposed rule change will have an impact on or impose a burden on competition.

---

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by PHILADEP.

[3] Once PHILADEP receives these securities from the transfer agent, a participant may request that PHILADEP delay mailing these securities for a couple of days in order to verify that the customer in whose name the securities are registered still is the beneficial owner (''Hold Mail Request''). Many participants prefer to check the beneficial ownership of securities before PHILADEP mails them.

[4] 15 U.S.C. §§ 78q–1(b)(3)(A) and (F) (1988).

(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 with respect to the proposed rule change.

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) [5] of the Act and pursuant to Rule 19b–4(e)(4) [6] promulgated thereunder because the proposal effects a change in an existing service of PHILADEP that does not adversely affect the safeguarding of securities or funds in the custody or control of PHILADEP and does not significantly affect the respective rights or obligations or PHILADEP or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, 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, NW, Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of PHILADEP. All submissions should refer to File Number SR–PHILADEP–95–10 and should be submitted by March 27, 1996.

[5] 15 U.S.C. § 78s(b)(3)(A)(iii) (1988).

[6] 17 CFR 240.19b–4(e)(4) (1995).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5152 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36903; File No. SR-Phlx–96–01]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Restrictions on Exercise for A.M-Settled Index Options

February 28, 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 17, 1996, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Phlx has requested accelerated approval for the proposal. This Order approves the Phlx proposal on an accelerated basis and solicits comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rules 1042A (and corresponding Options Floor Procedure Advice G–1) and 1101A to clarify their application to a.m.-settled index options. In addition, Phlx also proposes to clarify in its applicable Rule Commentary that Phlx Super Cap Index options trading hours extend until 4:15 p.m. The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx 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 Phlx 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 recently amended Rule 1006A, ''Other Restrictions on Options Transactions and Exercises,'' to replace the term ''business day'' with ''trading day'' in order to correct the application of that rule to a.m.-settled index options.[1] As a result, restrictions on exercise are only in effect until the opening of business on the last business day before expiration, which is generally Friday for all index options. Following further review of the index options rules, however, the Exchange has identified two additional changes necessary to clarify the application of restrictions on exercise to a.m.-settled index options.

First, the Exchange proposes to amend Rule 1042A, ''Exercise of Option Contracts,'' to replace the term ''trading day'' with ''business day'' in paragraph (b).[2] Paragraph (a) to Rule 1042A requires members to follow certain procedures when tendering exercise advices. Paragraph (b), however, states that the provisions of paragraph (a) do not apply on the last trading day before expiration. Although all index options expire on Saturday, the last trading day for a.m.-settled index options is Thursday. Under the current Rule, therefore, an investor who exercises an a.m.-settled option on Saturday by notifying his broker on Friday would be required to submit an exercise advice. Changing the term ''trading day'' to ''business day'' allows the Exchange to correct an unintended result and more clearly reflects that an exercise advice is not required for exercises of index options submitted on expiration Friday, whether a.m.-settled or p.m.-settled.

Second, the Exchange proposes to amend Commentary .01 to Rule 1101A, Terms of Option Contracts, to replace the language ''including the business day prior to expiration'' with ''through the last trading day prior to expiration.'' This change is necessary because the old language implies that expiring a.m.-settled index options may trade on the Friday prior to expiration. By changing this language, the Exchange notes that broad-based index options to which the Commentary is applicable will be able

[1] *See* Securities Exchange Act Release No. 35827 (June 8, 1995), 60 FR 31336 (June 14, 1995).

[2] Phlx proposes to make the same change in Options Floor Procedure Advice G–1, Exercise Requirements.

to trade until 4:15 p.m. each business day, through the last trading day prior to expiration, which would be Friday for p.m.-settled index options and Thursday for a.m.-settled index options.

The Phlx notes that Rule 1101A(c) establishes that index options shall trade until 4:10 p.m.. Commentary .01 to this Rule extends the trading session to 4:15 p.m. for certain broad-based index options. Accordingly, the Phlx also proposes to amend the language in Rule 1101A(c) from ''business day'' to ''trading day'' in order to clarify that a.m.-settled index options which trade until 4:10 p.m. may not trade on the Friday prior to expiration.

Finally, the Exchange proposes to clarify in Commentary .01 to Rule 1101A that Super Cap Index options trade until 4:15 p.m.

2. Statutory Basis

The Exchange believes the proposed rule changes are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) in particular in that they are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Findings and Conclusions

The Commission finds that the proposed rule change is 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 Section 6(b)(5).[3] Specifically, the Commission notes that the change in terminology to Rules 1042A and 1101A achieves conformity with the language contained in Phlx Rule 1006A with respect to restrictions on exercise. As a result, exercise advices will not be required on the Friday before expiration, regardless of whether an option is a.m. or p.m.-settled, or whether it trades until 4:10 p.m. or 4:15 p.m. Furthermore, implementation of the proposal is necessary to effect the Exchange's intended procedures regarding exercise requirements and restrictions for index options.

The Commission also believes that the Exchange's proposed rule text clarification that trading hours for Super Cap Index options extend until 4:15 p.m. is reasonable. The Commission has previously approved the trading of Super Cap Index options to 4:15 p.m.[4] Therefore, the amendment is technical in nature and does not raise any new or unique regulatory issues.

The Commission finds good cause to approve the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, the Commission finds that because the changes in terminology to Rules 1042A and 1101A simply bring these Rules into conformity with Phlx Rule 1006A and other options exchanges, and the Phlx rule text clarification that Super Cap Index Options trade until 4:15 p.m. is technical in nature, they do not raise any new or unique regulatory issues. Accordingly, the Commission believes it is consistent with the Act to approve the proposal on an accelerated basis.

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 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 Phlx. All submissions should refer to File No. SR–Phlx–96–01 and should be submitted March 27, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[5] that the proposed rule change (SR–Phlx–96–01) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5219 Filed 3–5–96; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. § 78f(b)(5) (1988).

[4] *See* Securities Exchange Act Release No. 36369 (Oct. 13, 1995).

[5] 15 U.S.C. § 78s(b)(2) (1988).

[6] 17 CFR 200.30–3(a)(12) (1994).

DEPARTMENT OF STATE

[Public Notice 2353]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic documentation will meet in the Department of State on Thursday, March 21, 1996 in Conference Room 1205 and Friday, March 22, 1996, in Conference Room 1105.

The Committee will meet in open session from 9 a.m. on the morning of Thursday, March 21, 1996, until 12 noon. The remainder of the Committee's sessions from 1:30 p.m. on Thursday, March 21 until 1 p.m. Friday, March 22, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). It has been determined that discussions during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities will be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123, (e-mail histoff@ix.netcom.com).

Dated: February 27, 1996.

William Z. Slany,

Executive Secretary.

[FR Doc. 96–5174 Filed 3–5–96; 8:45 am]

BILLING CODE 4710–11–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Dockets OST–95–666 and OST–95–667]

APPLICATIONS OF SUNWORLD INTERNATIONAL AIRLINES, INC. FOR ISSUANCE OF NEW CERTIFICATE AUTHORITY

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 96–2–58)

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Sunworld International Airlines, Inc., fit, willing, and able, and (2) awarding it certificates of public convenience and necessity to engage in interstate and foreign scheduled air transportation of persons, property, and mail, for a period of one year.

DATES: Persons wishing to file objections should do so no later than March 7, 1996.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–95–666 and OST–95–667 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. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 366–9721.

Dated: February 29, 1996.

Charkes A. Hunnicutt

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–5192 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Special Committee 184]
[RTCA, Inc.; Minimum Performance and Installation Standards for Runaway Guard Lights

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee 184 meeting to be held March 26, 1996, starting at 9:30 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: (1) Administrative Announcements; (2) Chairman's Introductory Remarks; (3) Review and Approval of Meeting Agenda; (4) Review and Approval of Minutes of the Previous Meeting; (5) Review Work Assignments from the Previous Meeting; (6) Complete All Sections of Draft in Preparation for Distribution for Comment; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434) (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on February 28, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–5123 Filed 3–5–95; 8:45 am]

BILLING CODE 4810–13–M

Intent to Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) Collected at Los Angeles International Airport (LAX), Los Angeles, California

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 use the revenue from a PFC at Los Angeles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 15, 1996.

ADDRESSES: Comments on this application may be mailed in triplicate to the following mailing address: Federal Aviation Administration, Airports Division, P.O. Box 92007, WWPC, Los Angeles, CA 90009, or delivered in triplicate to the following street address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Hawthorne, CA 90261.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jerald K. Lee, Deputy Executive Director, Los Angeles Department of Airports, One World Way, Los Angeles, CA 90045.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the, Los Angeles Department of Airports under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Milligan, Supervisor, Standards Section, AWP–621m Airports Division, Federal Aviation Administration, 15000 Aviation Blvd., Hawthorne, CA 90261, Tel (310) 725–3621. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at LAX under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 14, 1996, the FAA determined that the application to use the revenue from a PFC submitted by the Los Angeles Department of Airports was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 31, 1996.

The following is a brief overview of the application (PFC application [?]

Level of PFC: $3.00.

Actual charge effective date: July 1, 1993.

Actual charge expiration date: December 31, 1995.

Total estimated net PFC revenue collected: $168,000,000.

Total estimated PFC revenue to be used: $116,000,000.

The balance of approximately $52,000,000 in PFC revenue is concurrently proposed for airfield projects at Ontario International Airport (ONT) and LAX under a separate PFC application. This is part of an informal resolution process in accordance with section 168.83 of FAR Part 158.

Brief description of proposed project: ONT Terminal Development Program.

Class or classes of air carriers which the public agency has requested not be required to collect: PFCs: Air Taxi/Commercial Operators (ATCO) filing Form 1800–31, including: American Trans Air Execujet, CFI, Inc., Chrysler Aviation, Corporate Flight, Inc., Elliott Aviation, Geneva International, Key Air, KMR Aviation, Louisiana Pacific

Corporation, Mayo Aviation, Inc., Mcathco Enterprises, Inc., Modesto Executive Air Charter, Morgan Equipment, Raleigh Jet Charter, Samaritan Health Services, Valko, Inc., Windstar Aviation Corp., and Yecny Enterprises, Inc.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Los Angeles Department of Airports, Los Angeles International Airport.

Issued in Los Angeles, California on February 16, 1996.

Robert C. Bloom,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 96–5124 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–94; Notice 2]

Decision that Nonconforming 1991 BMW 735IL Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1991 BMW 735IL passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1991 BMW 735IL passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1991 BMW 735IL), and they are capable of being readily altered to conform to the standards.

EFFECTIVE DATE: March 6, 1996.

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) 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.

Champagne Imports, Inc. of Landsale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to decide whether 1991 BMW 735IL passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on December 11, 1995 (60 FR 63568) to afford an opportunity for public comment. The Reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–146 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1991 BMW 735IL not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1991 BMW 735IL originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

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 29, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–5128 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–96; Notice 2]

Decision that Nonconforming 1992 and 1993 Mercedes-Benz 500SEL Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1992 and 1993 Mercedes-Benz 500SEL passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 and 1993 Mercedes-Benz 500SEL passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S.-certified versions of the 1992 and 1993 Mercedes-Benz 500SEL), and they are capable of being readily altered to conform to the standards.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–3766–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(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 received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer R–90–007) petitioned NHTSA to decide whether 1992 and 1993 Mercedes-Benz 500SEL passenger cars are eligible for importation into the United States. NHTSA publishes notice of the petition on December 15, 1995 (60 FR 64468) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–147 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1992 and 1993 Mercedes-Benz 500SEL (Model ID 140.051) passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1992 and 1993 Mercedes-Benz 500SEL passenger cars originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

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 29, 1996.

Marilynne Jacobs,

Director Office of Vehicle Safety Compliance.

[FR Doc. 96–5129 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Pipeline Safety User Fees

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice

SUMMARY: This notice announces that the fiscal year 1996 user fee assessments for pipeline facilities will be mailed to pipeline operators on or about February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Lisa Kokoszka, (202) 366–4554, U.S. Department of Transportation, RSPA, Office of Pipeline Safety, 400 Seventh Street, S.W., Washington, DC 20590, regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION: The fee to be assessed for Natural Gas Transmission, Hazardous Liquid and Liquefied Natural Gas (LNG) are as indicated below:

Natural gas transmission pipelines: $77.49 per mile (based on 290,924 miles of pipeline). Hazardous liquid pipelines: $49.65 per mile (based on 155,649 miles of pipeline).

LNG is based on the number of plants and total storage capacity:

Total Storage Capacity BBLS	Assessment/Plant
<10,000	= $1,250
10,000–100,000	= $2,500
100,000–250,000	= $3,750
250,000–500,000	= $5,000
>500,000	= $7,500

Section 60301 of Title 49, United States Code [1], authorizes the assessment and collection of pipeline user fees to fund the pipeline safety activities conducted under 49 U.S.C. 60101 *et seq.* RSPA assesses each operator of regulated interstate and intrastate natural gas transmission pipelines (as defined in 49 CFR Part 192), and hazardous liquid pipelines carrying petroleum, petroleum products, anhydrous ammonia and carbon dioxide (as defined in 49 CFR Part 195) a share of the total Federal pipeline safety program costs in proportion to the number of miles of pipeline each operator has in service. Operators of LNG facilities are assessed based on total storage capacity (as defined in 49 CFR Part 193).

A final rule on hazardous liquid pipelines operating at 20 percent or less of specified minimum yield strength (low stress pipelines), was published in the Federal Register on July 12, 1994. This rule became effective on August 11, 1994. Low Stress Pipelines include pipelines that carry highly volatile liquids (HVL), pipelines or pipeline segments in populated areas, and pipelines or pipeline segments in navigable waterways. Onshore rural gathering pipelines, pipelines that operate at less than 20% of SMYS (non-HVL located outside populated areas and navigable waterways), and other pipelines excluded from regulation by 49 CFR 195, should not be included.

In accordance with the provisions of 49 U.S.C. 60301, Departmental resources were taken into consideration for determining total program costs. The apportionment ratio between gas and liquid, as shown below, is a result of increased program resources to the hazardous liquid program because of environmental requirements following passage of the Pipeline Safety Act of 1992 (Pub. L. 102–508):

Year(s)	General program costs (Gas)	General program costs (Liquid)
1986–1990.	80%	20%
1991–1992.	75%	25%
1993	75% (3/4 yr.)	25% (3/4 yr)
	60% (1/4 yr.)	40% (1/4 yr)
1994	60%	40%
1995	75%	25%
1996	65%	35%

Collection Dates: In accordance with the regulations of the Department of the Treasury, user fees will be due 30 days after the date of the assessment. Interest, penalties, and administrative charges will be assessed on delinquent debts in accordance with 31 U.S.C. 3717.

Issued in Washington, DC on February 29, 1996.

Dr. D.K. Sharma,

Administrator, Research and Special Programs Administration.

[FR Doc. 96–5193 Filed 3–5–96; 8:45 am]

BILLING CODE 4910–60–P

[1] Formerly section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub.L. 99–272). The change in citation is the result of the enactment, on July 5, 1994, of Pub. L. 103–272, which codified various transportation laws.

Surface Transportation Board [1]

[STB Finance Docket No. 32873]

Arkansas-Oklahoma Railroad Company—Lease and Trackage Rights Exemption—Missouri Pacific Railroad Company and the State of Oklahoma

Arkansas-Oklahoma[1] Railroad Company (AOK), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to assume the Missouri Pacific Railroad's (MP) lease of a rail line which is owned by the State of Oklahoma between Howe, OK, at milepost 295.36 and McAlester, OK, at milepost 364.96, a distance of 69.60 miles. The transaction also includes incidental AOK trackage rights for interchange purposes over MP's Shawnee Branch rail line between milepost 364.96 and milepost 370.5 and between milepost 566.00 and milepost 563.00, a distance of 8.54 miles.

Consummation is scheduled to occur on or after the March 1, 1996 effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction. An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32873, must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Kelley E. O'Brien, Mayer, Brown & Platt, 2000 Pennsylvania Avenue, N.W., Washington, DC 20006.

Decided: February 29, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–5255 Filed 3–5–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

[STB Finance Docket No. 32872]

Minnesota Commercial Railway Company—Trackage Rights Exemption—Soo Line Railroad Company

Minnesota Commercial Railway Company (MNCR) has filed a verified notice under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights from the Soo Line Railroad Company (Soo) over approximately 7.60 miles between milepost 416.14+/− near Merriam Park and milepost 408.54+/− near East Hoffman Avenues in St. Paul, Ramsey County, MN. The trackage rights were scheduled to become effective on February 29, 1996.

The notice states that the MNCR's use of the Soo track will enable MNCR to operate trains it handles in interchange with other carriers.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32872, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Larry D. Starns, Esq., 1000 Soo Line Building, 105 South Fifth Street, Minneapolis, MN 55402.

Decided: February 29, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–5256 Filed 3–5–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

DEPARTMENT OF THE TREASURY

Submission for OMB review; comment request

February 22, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Offices/Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1505–0063.

Form Number: TD F 90–22.1.

Type of Review: Extension.

Title: Report of Foreign Bank and Financial Accounts.

Description: The Department of the Treasury requires the information on this form in order to assist it in its efforts to prevent, detect, and enforce laws to combat money laundering and other financial crimes.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 140,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 11,510,025 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices,Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–5246 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–25–P

Submission for OMB review; comment request

February 28, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980,

Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. CUSTOMS SERVICE (CUS)

OMB Number: 1515–0208.
Form Number: None.
Type of Review: Extension.
Title: North American Free Trade Agreement Duty-Deferral.
Description: The duty deferral claimant will make application to the U.S. Customs for excess duty paid on NAFTA eligible good which has been exported to another NAFTA country. This procedure of refunds will become effective for goods into Canada (Effective 01/01/96) and Mexico (Effective 01/01/01).
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 1,783.
Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.
Frequency of Response: Other (as needed).
Estimated Total Reporting/ Recordkeeping Burden: 250,065 hours.
Clearance Officer: Norman Waits (202) 927–1551, U.S. Customs Service, Printing and Records Management Branch, Room 6426, 1301 Constitution Avenue, N.W., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 96–5247 Filed 3–5–96; 8:45 am]
BILLING CODE 4820–02–P

Submission for OMB Review; Comment Request

February 28, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Customs Service (CUS)

OMB Number: 1515–0170.
Form Number: CF–3461.
Type of Review: Extension.
Title: Manufacturer/Shipper Name and Address Required at Time of Entry.
Description: The manufacturer's/ shipper's names and addresses are required, in coded format, in block 26 of the entry form 3461. This information assists Customs not only with the verification of the Manufacturer's Identification number provided on the entry forms, but also with the interdiction of violative shipments through positive identification of the parties.
Respondents: Business or other for-profit, Federal Government.
Estimated Number of Respondents/ Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper: 5 minutes.
Frequency of Response: Other (Daily).
Estimated Total Reporting/ Recordkeeping Burden: 9,919 hours.
Clearance Officer: Norman Waits, (202) 927–1551, U.S. Customs Service, Printing and Records Management Branch, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 96–5248 Filed 3–5–96; 8:45 am]
BILLING CODE 4820–02–P

Submission for OMB Review; Comment Request

February 28, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0141.
Form Number: ATF F 2635 (5620.8).
Type of Review: Extension.
Title: Claim—Alcohol, Tobacco and Firearms Taxes.
Description: This form is used by taxpayers to show the basis for a credit remission and allowance of tax on a loss of taxable articles. To request a refund or abatement on taxes excessively or erroneously collected. To request a drawback of tax paid on distilled spirits used in the production of non-beverage products. This form is submitted along with supporting documents to indicate the reason a credit of Federal tax should be made.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions
Estimated Number of Respondents: 10,000.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion, Quarterly, Monthly.
Estimated Total Reporting Burden: 10,000 hours.

OMB Number: 1512–0178.
Form Number: ATF F 4483 (5300.5).
Type of Review: Extension.
Title: Reporting of Firearms Transactions.
Description: This form is used to evaluate firearms transactions by licensee when the Regional Director (Compliance) determines the need to do so. It is prepared from existing records and submitted to the official.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 250.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 250 hours.

OMB Number: 1512–0203.
Recordkeeping Requirement ID Number: ATF REC 5110/06.
Type of Review: Extension.
Title: Distilled Spirits Plants—Excise Taxes.
Description: This collection of information is necessary to account for and verify taxable removals of distilled spirits. The data is used to audit tax payments.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 133.
Estimated Burden Hours Per Recordkeeper: 26 hours.
Frequency of Response: Weekly.
Estimated Total Recordkeeping Burden: 3,458 hours.

OMB Number: 1512–0204.
Form Number: ATF F 5110.38.

Type of Review: Extension.

Title: Formula for Distilled Spirits Under the Federal Alcohol Administration Act (Supplemental).

Description: ATF F 5110.38 is used to determine the classification of distilled spirits for labeling and for consumer protection. The form describes the person filing, type of product to be made, and restrictions to the labeling and manufacture. The form is used by ATF to ensure that a product is made and labeled properly and to audit distilled spirits operations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,000 hours.

OMB Number: 1512–0369.

Recordkeeping Requirement ID Number: ATF REC 5300/1.

Type of Review: Extension.

Title: Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

Description: Firearms manufacturers' record is a permanent record of firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire into the disposition of any firearms in the course of a criminal investigation.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 1,380.

Estimated Burden Hours Per Recordkeeper: 3 minutes per line item.

Frequency of Response: Other.

Estimated Total Recordkeeping Burden: 72,023 hours.

OMB Number: 1512–0386.

Recordkeeping Requirement ID Number: ATF REC 7570/1.

Type of Review: Extension.

Title: Records of Acquisition and Disposition—Registered Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Imports List.

Description: These records of items that are listed on the U.S. Munitions List are used to account for the items by the Registered Import and this Bureau in investigation to insure compliance with the Federal Law.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 50.

Estimated Burden Hours Per Recordkeeper: 5 hours.

Frequency of Response: Other.

Estimated Total Recordkeeping Burden: 250 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–5249 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–31–P

Office of Inspector General

Privacy Act of 1974, as Amended; System of Records

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of Revised System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, the Office of Inspector General (OIG) gives notice of a revised system of records entitled General Allegations and Investigative Records—Treasury/DO.190. The system notice was last published in its entirety in the Federal Register, at 60 FR 56664 on November 9, 1995.

DATES: This notice will be adopted without further publication in the Federal Register on April 15, 1996, unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESSES: Comments should be sent to Office of Inspector General, Assistant Inspector General for Resources, Room 7119, 1201 Constitution Avenue, NW, Washington, DC 20220. Comments received will be available for inspection in the Office of Inspector General, Resources Directorate, Room 7102, 1201 Constitution Avenue, NW, Washington, DC, during the hours of 9 a.m. to 3 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rennay Nicholas, Resources Directorate, (202) 927–5210.

SUPPLEMENTARY INFORMATION:

The General Allegations and Investigative Records system is being revised to reflect additional system locations, authority for maintenance of the system, and revisions to the storage, retrievability, retention, and system manager sections. The revisions are necessary to accommodate the OIG's expanded size and increased responsibility, which resulted in part from the Inspector General Act Amendments of 1988 (Pub. L. 100–504).

To adequately fulfill its mission, the OIG's Office of Investigations has opened offices in five locations around the country. Keeping investigative files in these locations is essential to the successful operation and adequate record keeping of the Office of Investigations.

The Privacy Act notice data element ''Purpose(s)'' is being added to the notice to conform with requirements of the Act.

The storage and safeguards of magnetic media have been changed to increase security over those indices.

The investigative index, which previously had been maintained on index cards, has been automated. The automation allows for more rapid retrieval of case numbers and status synopses. Retrievability by case agent's name and number is being added to further assist OIG officials in evaluating workload and case status information. In addition, a correspondence tracking system called the Correspondence Allegations and Investigative Tracking System (CAITS) was developed to more efficiently control investigative correspondence. CAITS is accessed through the OIG's Management Information System (DO.191) menu. However, the records reside in Treasury/DO .190—General Allegations and Investigative Records system.

The retention period for investigative indices stored on magnetic media has been changed to be retained indefinitely. The records will be updated as necessary.

The system manager responsibility has been delegated to the Assistant Inspector General for Investigations for increased office efficiency.

The specific changes to this system of records are set forth below:

Treasury/DO .190

SYSTEM NAME:

General Allegations and Investigative Records—Treasury/DO.

SYSTEM LOCATION:

Office of Inspector General (OIG), Assistant Inspector General for Investigations, 1201 Constitution Avenue, NW, Washington, DC 20220; Regional Inspectors General for Investigations in Washington, DC; Houston, TX; Los Angeles, CA; and Chicago, IL; and Office of Investigations field offices in New York, NY, and Glynco, GA. Addresses may be obtained from the system manager.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as Amended, 5 U.S.C.A. App.3.

PURPOSE(S):

The records and information collected for and maintained in this system are used to (a) receive allegations of violations of the Department's rules of conduct, the Office of Personnel Management merit system, or any other criminal or civil misconduct and to (b) prove or disprove, to the extent possible, allegations which the OIG receives that are made against Department of the Treasury employees.

* * * * *

STORAGE:

Paper records in file jackets are maintained in a secured locked room. Also, magnetic media maintained on the Case Tracking Systems are password protected, secured by an internal lock and locked in a secured room. Backup of the magnetic media is maintained in a locked safe.

RETRIEVABILITY:

Alphabetically by name of subject or complainant, by case number, and by special agent name and/or employee number.

SAFEGUARDS:

Paper records and word processing disks are maintained in locked safes and all access doors are locked when offices are vacant. Automated records are controlled by computer security programs which limit access to authorized personnel who have a need for such information in the course of their duties. The records are available to Office of Inspector General personnel who have an appropriate security clearance on a need-to-know basis.

RETENTION AND DISPOSAL:

Investigative files and paper indices are stored on-site for 3 years. Indices to those files are stored on-site on magnetic media for an indefinite time. The magnetic media will be retained indefinitely; however, they will be updated periodically to reflect changes. Upon expiration of their respective retention periods, the investigative files are transferred to the Federal Records Center, Suitland, Maryland, for storage and in most instances destroyed by burning, maceration or pulping when 20 years old.

SYSTEM MANAGER(S) AND ADDRESS(S):

Assistant Inspector General for Investigations, Room 7320, 1201 Constitution Avenue, NW, Washington, DC 20220.

* * * * *

Dated: February 27, 1996.

Alex Rodriquez,

Deputy Assistant Secretary (Administration).

[FR Doc. 96–5159 Filed 03–05–95; 8:45 am]

BILLING CODE: 4810–25–F

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning Excise Tax Return-Alcohol and Tobacco.

DATES: Written comments should be received on or before May 6, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Ruhf, Tax Compliance Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Excise Tax Return-Alcohol and Tobacco.

OMB Number: 1512–0467.

Form Number: ATF F 5000.24.

Abstract: Businesses report their Federal excise tax liability on distilled spirits, beer, wine, tobacco products, or cigarette papers and tubes on ATF F 5000.24. ATF needs this form to identify the taxpayer and to determine the amount and type of taxes due and paid.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2800.

Estimated Time Per Respondent: 42 minutes.

Estimated Total Annual Burden Hours: 35,800.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: February 29, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–5229 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Records and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data By Licensed Explosives Manufacturers and Manufacturers (Limited).

DATES: Written comments should be received on or before May 6, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions

should be directed to Janice L. Fields, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8052.

Title: Records and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data By Licensed Explosives Manufacturers and Manufacturers (Limited).

OMB Number: 1512–0372.

Recordkeeping Requirement ID Number: ATF REC 5400/2.

Abstract: These records show daily activities in the manufacture, use, storage, and disposition of explosive materials by manufacturers and manufacturers (limited) covered under 18 U.S.C. Chapter 40. The records are used to show where and to whom explosive materials are sent, thereby ensuring that any diversion will be readily apparent and, if lost or stolen, ATF will be immediately notified on discovery of the loss or theft. ATF requires that records be kept 5 years from date of transaction.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,053.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 68,835.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: February 29, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–5230 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax.

DATES: Written comments should be received on or before May 6, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Lou Blake, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax.

OMB Number: 1512–0200.

Form Number: ATF F 5110.31.

Abstract: ATF F 5110.31 is used to allow a person to ship spirits in bulk into the U.S. The form identifies the person in Puerto Rico from where shipments are to be made, the person in the U.S. receiving the spirits, amounts of spirits to be shipped, and the bond of the U.S. person to cover taxes on such spirits.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 450.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: February 29, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–5231 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Excise Tax Return-Alcohol and Tobacco Products (Puerto Rico).

DATES: Written comments should be received on or before May 6, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Ruhf, Tax Compliance Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Excise Tax Return-Alcohol and Tobacco Products (Puerto Rico).

OMB Number: 1512–0497.

Form Number: ATF F 5000,25.

Abstract: Businesses in Puerto Rico report their Federal excise tax liability on distilled spirits, beer, wine, tobacco products, or cigarette papers and tubes on ATF F 5000.25. ATF needs this form to identify the taxpayer and to determine the amount and type of taxes due and paid.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 30.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 130.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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.

Dated: February 29, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–5232 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Manufacturer of Tobacco Products Monthly Report.

DATES: Written comments should be received on or before May 6, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Clifford A. Mullen, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Manufacturer of Tobacco Products Monthly Report.

OMB Number: 1512–0163.

Form Number: ATF F 5210.5 (3068).

Abstract: ATF F 5210.5 (3068) documents a tobacco products manufacturer's accounting of cigars and cigarettes. The form describes the tobacco products manufactured, articles produced, received, disposed of and statistical classes of large cigars. ATF examines and verifies entries on these reports so as to identify unusual activities, errors and omissions.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 101.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1212.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: February 29, 1996.

Bradley A. Buckles,

Acting Director.

[FR Doc. 96–5233 Filed 3–5–96; 8:45 am]

BILLING CODE 4810–31–P

federal register

Wednesday
March 6, 1996

Part II

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Servicing of Motor Vehicle Air Conditioners; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5426–1]

RIN 2060–AF35

Protection of Stratospheric Ozone; Servicing of Motor Vehicle Air Conditioners

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On July 14, 1992, EPA published a final rule in the Federal Register establishing standards and requirements regarding the servicing of motor vehicle air conditioners (MVACs) that use chlorofluorocarbon-12 (CFC–12), a class I refrigerant, and establishing restrictions on the sale of small containers of class I or class II refrigerants, pursuant to section 609 of the Clean Air Act, as amended (the Act).

Pursuant to section 609(b)(1), today's proposed rule would establish standards and requirements for the servicing of motor vehicle air conditioners that use class I or class II substances other than CFC–12 as a refrigerant, or use HFC–134a, a non-ozone-depleting substitute for CFC–12, or any other substitute for a class I or class II substance used in an MVAC.

Today's proposed rule also would require that at motor vehicle disposal facilities, either section 609 certified technicians, or employees, owners or operators of the facilities, be used to recover refrigerant (whether CFC–12 or a substitute) from motor vehicles located at the facilities and bound for disposal. The recovered refrigerant would have to be reclaimed or recycled using approved equipment prior to use in recharging an MVAC or MVAC-like appliance. The proposal would also establish standards for owners and operators of salvage yards, scrap recycling facilities, landfills or other facilities where such vehicles may be located, to sell refrigerant recovered from such vehicles to section 609 certified technicians. Finally, the proposal would establish standards for mobile recovery and recycling service.

Today's proposal increases industry flexibility in selecting and purchasing proper recovery and recycling equipment by establishing standards for equipment that recovers and/or recycles additional refrigerants, and approving independent testing organizations that certify such equipment.

By promoting the recycling or reclamation of all refrigerants from MVACs, this proposed rule will help to lower the risk of depletion of the stratospheric ozone layer and the possibility of global warming, thus diminishing potentially harmful effects to human health and the environment, including increased incidence of certain skin cancers and cataracts.

DATES: Written comments on this proposed rule must be received by April 5, 1996, unless a hearing is requested by March 18, 1996. If a hearing is requested, written comments must be received 30 days after the hearing. Individuals wishing to request a hearing must contact the Stratospheric Ozone Information Hotline at 1–800–296–1996 between 10 a.m. and 4 p.m., Monday through Friday, Eastern time, by March 18, 1996. To find out whether a hearing will take place, contact the Stratospheric Ozone Information Hotline after March 19, 1996.

ADDRESSES: Written comments and data should be sent to Public Docket No. A–95–34. This docket is located in Room M–1500, Waterside Mall (Ground Floor), U.S. Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460. Dockets may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Christine Dibble, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street S.W., Washington, D.C. 20460. (202) 233–9147 or fax (202) 233–9577 or electronically at dibble.christine@epamail.epa.gov. Comments and data submitted electronically will not be accepted. The Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Background
A. Statutory Authority
B. July 14, 1992 Final Rule and May 2, 1995 Supplemental Final Rule
II. Today's Proposed Rule
A. Service Practices
1. The Handling of Refrigerant From Motor Vehicles Bound for Disposal and Located at Motor Vehicle Disposal Facilities
2. Mobile Recovery and Recycling
B. Standards for Recover/Recycle Equipement
1. Standard for HFC–134a Recover/Recycle Equipment
2. Standard for HFC–134a Recover-only Equipment
3. Standard for Automotive Refrigerant Recycling Equipment Intended for Use With Both CFC–12 and HFC–134a
4. Standard for Recover-only Equipment That Extracts Class I or Class II Refrigerants Other Than CFC–12
C. Substantially Identical Equipment
D. Approved Independent Testing Organizations
E. Technician Training and Certification
F. Sales Restrictions
III. Summary of Supporting Analyses
A. Executive Order 12866
B. Regulatory Flexibility Analysis
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act

I. Background

A. Statutory Authority

Title VI of the Act is designed to protect the stratospheric ozone layer. Section 609 of the Act requires the Administrator to promulgate regulations establishing standards and requirements regarding the servicing of MVACs. Section 609 defines ''refrigerants'' to include, as of November 14, 1995, any substance that substitutes for a class I or class II substance used in an MVAC. The statute requires that as of that date: Persons servicing an MVAC system for consideration must use approved recover/recycling equipment. To be approved, equipment must be certified by the Administrator, or by an independent standards testing organization approved by the Administrator, or the equipment must be substantially identical to such equipment if it was purchased prior to the date EPA proposed standards applicable to the equipment. To be certified, the equipment must meet standards established by the Administrator, which shall be at least as stringent as Society of Automotive Engineers (SAE) standard J1990. In addition, any such servicing of an MVAC system for consideration must be performed by a technician trained and certified according to standards established by the Administrator. EPA also sets standards for certification and training, and approves organizations to conduct such training if they meet the Agency's standards. Finally, section 609 prohibits the sale of small containers of class I or class II substances used in MVACs, unless sold to section 609 certified technicians.

B. July 14, 1992 Final Rule and May 2, 1995 Supplemental Final Rule

On July 14, 1992, the Agency published a final rule initially implementing section 609. In that rule, the Agency prohibited the repair or servicing of any MVAC for consideration if such repair or servicing involved the air conditioner refrigerant, unless performed by a trained and certified technician who properly uses approved refrigerant recycling

equipment. The Agency also prohibited the sale or distribution of any class I or class II substance suitable for use in an MVAC that is in a container of less than 20 pounds to anyone other than a properly trained and certified section 609 technician.

The July 14, 1992 final rule defines ''approved refrigerant recycling equipment'' as equipment that recovers and recycles CFC–12 refrigerant and that is certified by the Administrator or by an independent standards testing organization approved by the Agency as meeting the standards set forth in appendix A in the rule. Refrigerant recycling equipment is also considered approved if it was purchased before September 4, 1991, and is substantially identical to the certified equipment. Only equipment certified as meeting the standards or meeting the criteria for substantially identical equipment is approved for use in the servicing of motor vehicle air conditioners under section 609 of the Act.

The July 14, 1992 rule also establishes standards by which (i) an independent standards testing organization may apply to the Agency for approval to test and approve refrigerant recycling equipment, and (ii) a training and certification program may apply to the Agency for approval to train and certify technicians in the proper use of refrigerant recycling equipment for MVACs. Finally, the rule establishes various recordkeeping and reporting requirements.

Underwriters Laboratories (UL) and ETL Testing Laboratories (ETL) are the approved independent standards testing organizations that currently certify equipment using the standards that appear in appendix A of the rule. These standards apply to recover/recycle equipment that extracts CFC–12 refrigerant from a motor vehicle air conditioner and cleans the refrigerant on-site. The regulatory standards are based on those developed by SAE and cover service procedures for recovering CFC–12 (SAE J1989, issued in October 1989), test procedures to evaluate recover/recycle equipment (SAE J1990 issued in October 1989 and revised in 1991) and a purity standard for recycled CFC–12 refrigerant (SAE J1991, issued in October 1989).

As stated above, section 609 prohibits the sale or distribution of any class I or class II substance suitable for use in an MVAC that is in a container of less than 20 pounds to anyone other than a properly trained and certified section 609 technician. It should be noted, however, that EPA expanded this prohibition in the regulations published on May 14, 1993 at 58 FR 28712 under section 608 of the Act (40 CFR 82.154(n)), which prohibits the sale as of November 14, 1994 of any size container of a class I or class II substance, including refrigerant blends that include class I or class II substances, to other than a section 608 or section 609 certified technician.

The July 14, 1992 rule reserved standards for equipment that extracts but does not recycle CFC–12 refrigerant (recover-only equipment) in Appendix B to the rule. On May 2, 1995, EPA published a final rule establishing regulatory standards, again based on those developed by SAE, which apply to certification of recover-only equipment. Specifically, for recover-only equipment, the Agency adopted (i) the recommended service procedure for the containment of CFC–12 described in SAE J1989 and already set forth in appendix A, and (ii) a standard that describes test procedures to evaluate recover-only equipment that is based on SAE J2209 (issued in June, 1992).

II. Today's Proposed Rule

Today's proposed rule further implements section 609(b)(1) of the Act. This section of the preamble reviews the major elements of the proposal. Specifically, the proposed regulations would:

(i) explicitly permit and establish standards for (a) section 609 certified technicians to recover refrigerant (whether CFC–12 or a substitute) from motor vehicles bound for disposal (including vehicles that contain MVAC-like appliances) and recycle that refrigerant in their service facilities for use, and (b) owners or operators of salvage yards, scrap recyclers, landfills or other facilities where such vehicles may be located, to sell refrigerant recovered from such vehicles (whether CFC–12 or a substitute) to section 609 certified technicians without recycling the recovered refrigerant;

(ii) revise the definition of ''properly using'' to explicitly permit and establish standards for mobile recovery and recycling service;

(iii) establish a standard for approval of recover/recycle equipment that extracts and recycles HFC–134a from MVACs;

(iv) establish a standard for approval of recover-only equipment that extracts HFC–134a from MVACs;

(v) establish a standard for approval of recover-only equipment for FRIGC™, a class II-containing blend refrigerant that has been listed as acceptable for use in MVACs under the Agency's Significant New Alternatives Policy (SNAP) program, and for other class I or class II refrigerants used in MVACs other than CFC–12;

(vi) establish a standard for approval of recover-recycle equipment that extracts and recycles both CFC–12 and HFC–134a using a common refrigerant circuit;

(vii) revise the requirements for Agency approval of independent standards testing organizations to include certification of recover/recycle and recover-only equipment designed to service HFC–134a and FRIGC™ MVAC systems; and

(viii) revise the criteria for approval of technician training and certification programs to reflect the use of recover/recycle and recover-only equipment designed to service HFC–134a, FRIGC™, and other class I or class II refrigerant MVAC systems.

In addition, in this notice EPA describes its intention to grandfather technicians currently certified under section 609, so that they will not need to be recertified to operate recover/recycle and recover-only equipment designed to service HFC–134a, FRIGC™, and other class I or class II refrigerant MVAC systems.

A. Service Practices

Today's proposed rule clarifies the Agency's position on two issues that have not previously been explicitly addressed in the section 609 regulations: (i) Under what conditions it is permissible for a section 609 certified technician to recover refrigerant from motor vehicles located at a motor vehicle disposal facility and bound for disposal, and under what conditions it is permissible for the owner or operator of a motor vehicle disposal facility to sell refrigerant recovered from such vehicles to certified technicians; and (ii) under what conditions it is permissible to conduct mobile recovery and recycling service, *i.e.*, service in which approved recover-only or recover/recycle equipment is transported to the location of an MVAC for servicing by a certified technician.

The Agency intends that the same service practice regulations being proposed today for MVACs will also be proposed for MVAC-like appliances (such as tractors and other farm equipment, construction equipment, and mining and quarry equipment, that meet the definition of MVAC-like appliances set forth in 40 CFR 82.152(l)). Because MVAC-like appliances are governed under section 608 of the Act rather than under section 609, service practice regulations similar to those being proposed today will be proposed for MVAC-like appliances in a separate proposal to amend section 608.

The proposed changes to the section 608 regulations are intended for publication on or about the date of publication of this section 609 proposed rule.

1. The Handling of Refrigerant From Automobiles Bound for Disposal and Located at Motor Vehicle Disposal Facilities

Since the publication of the July 14, 1992 rule, EPA has received an increasing number of questions concerning the handling of refrigerants from MVACs and MVAC-like appliances bound for disposal and located at motor vehicle disposal facilities. Many owners of motor vehicle disposal facilities have assumed that recovered refrigerant must be sent off-site for reclamation, while others have assumed that they may sell the refrigerant to any interested parties. In response to the increasing cost of CFC–12, some service technicians have begun to recover refrigerant from motor vehicle disposal facilities for use in their own service facilities. In addition, owners and operators of motor vehicle disposal facilities have been recovering refrigerant from automobiles and selling it to service technicians. The rule proposed today would clarify that the Agency permits these activities as long as certain requirements are met during the performance of the activities.

The regulations adopted by EPA at 40 CFR part 82, subparts B and F (*i.e.*, the section 609 and 608 regulations) currently address to some extent activities involving recovery and sale of refrigerant from MVACs and MVAC-like appliances at motor vehicle disposal facilities. Section 82.156(g) requires that all persons recovering refrigerant from MVACs and MVAC-like appliances for purposes of disposal must reduce the pressure of the system to or below 102 mm of mercury vacuum, using equipment that meets the requirements of § 82.158(l). Section 82.154(f) requires that persons who recover refrigerant from MVACs and MVAC-like appliances for purposes of disposal must certify to the Administrator that they have acquired equipment that meets such standards. In addition, persons who take the final step in the disposal process must recover any remaining refrigerant in accordance with applicable requirements. These provisions were adopted pursuant to section 608 of the Act. Within the section 609 regulations, § 82.34(b) requires that small containers of class I or II substances suitable for use in an MVAC may only be sold to certified technicians. This applies to sales of class I or II substances recovered from MVACs or MVAC-like appliances at motor vehicle disposal facilities. Finally, any servicing of an MVAC or MVAC-like appliance with refrigerant recovered from a motor vehicle disposal facility would be subject to the various equipment and use restrictions in 40 CFR Part 82, subparts B and F.

The regulations proposed today would supplement this regulatory scheme with a set of requirements that provide an incentive for the recovery and re-use of refrigerants from MVACs located at motor vehicle disposal facilities, minimize the discharge of refrigerants, and provide for the proper recycling or reclamation of the refrigerants prior to their use in servicing MVACs or MVAC-like appliances. The Agency intends that the regulations to be proposed shortly amending section 608 of the Act will similarly provide an incentive for the recovery and re-use of refrigerants from MVAC-like appliances located at motor vehicle disposal facilities so that the refrigerants are properly recycled or reclaimed prior to their use in servicing MVACs or MVAC-like appliances.

The Agency believes that recovery and recycling of refrigerant from MVACs bound for disposal and located at motor vehicle disposal facilities will be more economically attractive to the MVAC technician and the motor vehicle disposal facility operator if the sale or reuse of unreclaimed refrigerant is explicitly permitted. The MVAC technician will derive higher profit by selling recycled refrigerant to an MVAC service customer than by selling it to a reclaimer. Because of this economic incentive, technicians will seek salvaged MVACs. In addition, motor vehicle disposal facility owners and operators may profit by selling refrigerant directly to technicians, or by charging technicians fees for the opportunity to recover refrigerant at the facility, creating other economic incentives in the refrigerant recycling chain. The Agency believes that encouraging these activities will, by increasing the value of refrigerant to the person recovering it, reduce the amount of refrigerant that either leaks out of MVACs while they await disposal, or is purposely vented during the process of disposal.

Today's proposed rule would revise the definition of ''properly using'' located at § 82.32(e), add a definition of ''motor vehicle disposal facility'' at § 82.32(i), and add a new § 82.34(d). The effect of these changes is that upon the recovery of refrigerant from MVACs bound for disposal and located at motor vehicle disposal facilities, a person recovering the refrigerant, whether a certified technician or motor vehicle disposal facility owner, operator, or employee, would be able to transfer the refrigerant off-site for recycling or reclamation in accordance with the conditions described below.

The conditions described below in section (a) propose who may recover refrigerant from a motor vehicle disposal facility, and what kind of equipment should be used to recover refrigerant. Section (b) proposes who may purchase refrigerant recovered from a motor vehicle disposal facility, and section (c) proposes how refrigerant recovered by the persons described in (a) or (b) should be processed prior to reuse. Section (d) discusses recordkeeping and reporting requirements. Section (e) provides a general discussion of minimizing contamination of refrigerant from motor vehicle disposal facilities and requests comment on certain issues relating to the proposals described herein.

a. Recovery of refrigerant from MVACs at motor vehicle disposal facilities. The proposed restriction set forth in § 82.32(e)(3) states that equipment capable of reducing system pressure to or below 102 mm of mercury vacuum must be used to recover the refrigerant. This proposal simply references a provision previously adopted under section 608. It is repeated here for purposes of clarification only.

The proposal would also require in § 82.34(d) that any person recovering refrigerant from MVACs at a motor vehicle disposal facility who is not employed at or by the facility, or who is not the owner or operator of the facility, be a section 608 or section 609 certified technician. With respect to class I and class II substances, sections 608(a) and (b) authorize the restriction on who may recover refrigerant. Under section 608, the Administrator may prescribe standards and equipment regarding the use and disposal of class I or II substances, in order to reduce the use and emissions of these substances to the lowest achievable level, and to maximize the recapture and recycling of these substances. The Administrator also may establish standards and requirements regarding the safe disposal of these substances.

Although sections 608(a) and (b) authorize the restriction on who may recover refrigerant from a motor vehicle disposal facility with respect to class I or II substances, these sections do not directly require regulation of the use of substitute refrigerants that are not class I or class II substances. Section 608(c)(2), however, does prohibit the

knowing[1] venting or release of such substitutes during the maintenance, repair, service or disposal of an appliance where the refrigerant may enter the environment, unless the Administrator has determined that such venting, release, or disposal does not pose a threat to the environment. *De minimis* releases associated with good faith efforts to recapture and recycle or safely dispose of the refrigerant are not subject to this prohibition. Releases associated with recovery that does not comply with the regulations would not be considered *de minimus*. This venting prohibition is self-effectuating, and went into effect on November 15, 1995 with respect to substitutes for class I or class II substances. In today's rulemaking, EPA is proposing to define the kind of recovery and recycling practices that must be followed in order to avoid violating the prohibition on venting substitutes for class I or class II refrigerants. The requirement that only a section 608 or section 609 certified technician or an owner, operator, or employee of a motor vehicle disposal facility extract the substitute refrigerant from an MVAC at a motor vehicle disposal facility is a reasonable exercise of this authority, because extraction is an intentional activity, and any release associated with it would be considered a knowing release. In addition, it is reasonable to presume there will be a release associated with extraction, unless the person can show that in fact there was no such release. EPA is therefore proposing that it be a prohibited act to extract substitute refrigerant from MVACs at motor vehicle disposal facilities without meeting the requirements described in this proposal. A showing that there was no release would serve as an affirmative defense to this prohibition.

The proposed restriction on who may recover refrigerant serves to prohibit from recovering refrigerant at motor vehicle disposal facilities persons who are not certified under the Act to handle refrigerants, unless they are owners, operators or employees of the facilities. Because these persons have not been trained in the proper methods of recovering refrigerant from an MVAC system, they are more likely to vent refrigerant in the process of extracting it, and are less likely to know how to protect the purity of the refrigerant. Allowing these persons to recover class I and class II refrigerants at motor vehicle disposal facilities would not be consistent with the Agency's mandate to establish requirements that would maximize the recapture and recycling of class I and class II refrigerants. Allowing them to recover substitute refrigerants would not be consistent with the section 608(c) venting prohibition.

The Act currently permits owners, operators and employees of motor vehicle disposal facilities to recover refrigerants from MVACs located at the facilities even though they may not be certified and therefore trained in the proper handling of these refrigerants. The Agency intends to continue to permit this activity. Under this proposed rulemaking, refrigerant handled by these persons must be transferred either to a reclaimer, or to a 608 technician, who in turn sells it to a reclaimer, or to a 609 technician, who recycles the refrigerant. In all of these instances, because the refrigerant is either recycled or reclaimed, the purity of that refrigerant should be protected. In addition, many owners, operators and employees of these facilities may have already invested in equipment that they use to recover refrigerant, and may currently have in place contracts to sell the refrigerant extracted from MVACs at the facilities. If the Agency had decided instead to begin to prohibit owners, operators and employees of motor vehicle disposal facilities from recovering refrigerant (so that only certified technicians could recover refrigerant), these persons might be unable to use any equipment they had already purchased, and in violation of contracts previously entered into. In order to assure that motor vehicle disposal facility owners and operators maximize the recapture of class I and class II refrigerants as required by section 608(a) of the Act, and refrain from venting substitute refrigerants as required by section 608(c) of the Act, the Agency has traditionally relied on a combination of providing the industry with informational guidance and requiring the industry to meet regulatory mandates. Rather than requiring that owners and operators of motor vehicle disposal facilities become certified technicians, the Agency proposes to continue to publish guidance alerting the industry of the environmental consequences of releasing refrigerant, refrigerant salvage techniques, and the importance of not mixing different refrigerants.

b. Restriction on sale of recovered refrigerant. The proposal includes a restriction set forth at § 82.34(d) on who may purchase refrigerant recovered from a motor vehicle disposal facility. For class I and II substances recovered from MVACs, sections 608 and 609 authorize the proposed sales restriction. While section 609 is limited to restricting the sale of class I or II substances in small containers for use in MVACs, section 608 authorizes a broader sales restriction. The sales restriction provision proposed today for inclusion in § 82.34(d) basically repeats the sales restrictions previously promulgated at §§ 82.34(b) and 82.154(n). This proposal makes clear that the restriction applies with respect to class I or II substances recovered from MVACs during the disposal process.

The current sales restriction in section 609(e) does not extend to substitute refrigerants that are neither class I nor class II substances. EPA is currently developing a proposal addressing the use of substitutes under section 608, and is considering extending the sales restriction to such substitutes. EPA will address the sale of substitutes recovered from MVACs during the disposal process in that rulemaking. Section F of this preamble provides additional discussion with respect to restrictions on the sales of motor vehicle refrigerants.

c. Subsequent use of recovered refrigerant. Section 82.32(e) of the regulatory text proposed today would require that certified technicians process refrigerant recovered from a motor vehicle disposal facility through section 609 approved recycling equipment before it could be used to charge or recharge an MVAC. (In the concomitant proposed amendments to section 608 of the Act, EPA intends to propose similar requirements for refrigerant that is used to charge an MVAC-like appliance.) The only exception to this recycling requirement would be where the recovered refrigerant has been reclaimed to the appropriate level of purity. Section 609 authorizes this restriction with respect to MVACs, both for class I and class II substances as well as substitutes. A certified technician purchasing or accepting refrigerant from MVACs bound for disposal and located at a motor vehicle disposal facility is responsible to assure that the refrigerant is recycled properly prior to being charged into another MVAC or MVAC-like appliance and should not rely on assurances from the disposal facility that the refrigerant has been recycled.

Further, if refrigerant recovered from a motor vehicle disposal facility is to be recycled in section 609 approved refrigerant recycling equipment prior to reuse, the refrigerant may subsequently be charged only into an MVAC or an MVAC-like appliance. This proposal essentially references the requirement previously adopted in 40 CFR 82.154(g) and (h) that refrigerant recovered from

[1] EPA interprets the term ''knowing'' as used in section 608(c)(1) to mean a general intent, and not a specific intent to release or vent the refrigerant.

a 608 appliance that is to be charged into any type of appliance other than an MVAC or MVAC-like appliance must first be reclaimed. It is repeated here for purposes of clarification only.

d. Recordkeeping and reporting. Today's proposed rule does not require any additional recordkeeping relating to refrigerant recovered from MVACs prior to disposal. Requiring disposal facilities to track refrigerant, and to demonstrate how the refrigerant in each MVAC was handled prior to the disposal of the vehicle, would inhibit the activity EPA is encouraging in today's rule. Further, a recordkeeping requirement would add an undue administrative burden to industry because of the large number of vehicles disposed of annually, and would provide no additional benefit to the environment.

e. Minimizing contamination/requests for comment. The Agency is concerned that the purity of the supply of each automotive refrigerant be maintained. Although motor vehicle air conditioning has long been dominated by CFC–12, automotive manufacturers now install HFC–134a in new car systems, while some refrigerant manufacturers are attempting to establish large markets for other CFC–12 substitutes in vehicles. This proliferation of refrigerants in the section 609 sector increases the chances of contamination in individual systems. Contaminated refrigerant supplies may create MVAC system failures as well as failures of refrigerant recover/recycle equipment, leading to emissions of refrigerants and to increased costs for both service facilities and motor vehicle owners. In addition, contaminated refrigerant may be extremely difficult to recycle, reclaim, or dispose of, so that it is likely to be vented into the atmosphere.

i. Contaminated MVAC systems entering the disposal facility. Refrigerant recovered from MVACs bound for disposal at motor vehicle disposal facilities may of course be contaminated by refrigerants not approved for motor vehicle use, such as HCFC–22 or blends containing hydrocarbons. The Agency believes that permitting the recovery and recycling/reclamation of refrigerant from these MVACs will not significantly increase the possibility of contamination of the automotive refrigerant supply, for two reasons. First, nearly all MVACs currently being disposed of use only CFC–12. Second, MVACs using any other refrigerants are required by EPA to have unique fittings and a label stating the type of refrigerant used in the air-conditioning system. EPA strongly recommends, but is not requiring, that the person recovering the refrigerant at the facility identify the type of refrigerant prior to recovery, using refrigerant identifier equipment. EPA believes that the proper recovery and recycling/reclamation of refrigerant from vehicles located at disposal facilities, as described in this proposal, should serve to minimize the possibility of contaminated refrigerant supplies from disposal facilities.

ii. Improper practices at disposal facilities which would result in mixing or contamination of refrigerants. In order to minimize the chances of mixed refrigerants coming from motor vehicle disposal facilities, it may be necessary to require that persons recovering refrigerant at the facilities change the type of equipment that they now use. Current regulations in 82.158(l) provide that any person recovering refrigerant from an MVAC at a disposal facility must use equipment capable of reducing the system pressure to 102 mm (about 4 inches) of mercury vacuum. Although the Agency is today proposing to continue to permit persons recovering refrigerant from MVACs at disposal facilities to do so, the Agency is concerned that these persons may not properly purge or clear the recovery equipment prior to extracting another type of refrigerant with that equipment, or that they may not otherwise take the correct precautions to ensure that only one type of refrigerant is recovered into a container. Depending on the design of the equipment, significant quantities of refrigerant may be left behind in the condenser of the equipment after the recovery or recycling process is complete. This issue was discussed at length in the proposal and final rule for the original section 608 regulations. Parties interested in this issue should review the discussion of it in the final 608 regulations at 58 FR 28681–682.

EPA is consequently interested in receiving comments from the public as to whether the current requirement should be changed to satisfy this concern. Specifically, EPA would like to receive comments addressing whether EPA should require that persons recovering refrigerant must instead use (i) only equipment that meets the definition of ''approved refrigerant recycling equipment'' set forth in § 82.32(b) (*i.e.*, equipment approved under section 609), (ii) only equipment that meets the definition of ''certified refrigerant recovery or recycling equipment'' set forth in § 82.152(c) (*i.e.*, equipment approved under section 608), or (iii) equipment that meets either the definition set forth in § 82.32(b) or the definition set forth in § 82.152(c). Equipment approved under section 609 is generally dedicated to recovering and/or recycling a single refrigerant, with the exception of certain equipment designed for recycling both CFC–12 and HFC–134a which uses either two separate circuits or common circuitry. The Agency is not aware of any equipment approved under section 609 that recovers but does not recycle multiple refrigerants. Equipment approved under section 608 is generally designed for use with multiple refrigerants but uses a common circuit. Refrigerant from section 608 appliances must either be returned to the same system or reclaimed. For both section 608 and section 609 approved equipment that handles multiple refrigerants using common circuitry, certain equipment features are designed to prevent cross contamination. In addition, technicians are instructed on how to clear the equipment of residual refrigerant between jobs.

In order to minimize the chances of contaminated refrigerants coming from motor vehicle disposal facilities, it may be necessary to limit sales of refrigerant by owners, operators and employees of these facilities to section 608 certified technicians only. Section 609 certified technicians, rather than purchasing refrigerant from the facility owners, would have to recover the refrigerant themselves. Although the Agency does not wish to impose requirements on the disposal industry that would discourage recovery of refrigerants to such an extent that the requirements defeat the goals of Title VI of the Act, the Agency is particularly concerned that facilities that dismantle both refrigerators, residential air conditioners and other section 608 appliances, and motor vehicles, may engage in the practice of recovering from section 608 appliances refrigerant that is high in acid levels due to compressor burn-out, and then selling that refrigerant to a section 609 certified technician for use in an MVAC or MVAC-like appliance. Efforts to identify the refrigerant would not show that the refrigerant was contaminated by these acids. Sources such as residential air conditioners and refrigerators are much more likely to have ceased operation because of compressor burn-out, a condition which may be remedied through reclamation to the ARI 700 standard achieved in reclamation but not through recycling in section 609 approved refrigerant recycling equipment. The Agency is interested in receiving comments on this issue.

2. Mobile Recovery and Recycling

EPA has in the past not permitted a technician to transport his approved refrigerant recycling equipment off-site to perform air conditioning service for

an automobile body shop, service station, dealership or other facility that services MVACs or MVAC-like appliances, although the technician has been permitted to take the approved equipment to a facility where such servicing is generally not performed for consideration, such as a farm or personal residence. While this off-site, or mobile, service policy was directly addressed in an Applicability Determination dated July 22, 1994, and later addressed in a September 22, 1994 clarification of that Applicability Determination, the policy was not directly addressed in the original rule.

The original rule does require, however, that refrigerant may only be recycled off-site if the refrigerant is first extracted from an MVAC using recover-only equipment, and is then recycled off-site using equipment owned by the person who owns both the recover-only equipment and the establishment at which the refrigerant is extracted. In all other instances, refrigerant removed from the location where it is extracted has to be reclaimed to ARI 700 standards to assure purity. EPA believes that this requirement minimizes prospects of contamination of MVACs.

This on-site/off-site distinction discussed in the original rule, however, may be distinguished from the mobile service discussed in today's proposal. EPA required the on-site/off-site distinction because of its concern that refrigerant from non-MVAC air conditioning or refrigeration systems might contaminate MVAC systems and recycling equipment, particularly since MVAC recycling equipment is not designed to remove contaminants from non-MVAC systems. In contrast, the mobile service discussed in today's proposal would not increase the risk of contamination from non-MVAC sources, because EPA is limiting the mobile service to MVACs where the refrigerant must still be recycled on-site to the appropriate section 609 standard prior to reuse in another MVAC or in an MVAC-like appliance.

The goal of EPA's past prohibition on transportation of equipment off-site to perform air-conditioning service was to enhance compliance by encouraging MVAC service facilities to obtain their own approved equipment and to have their employees certified under section 609. EPA has based its interpretation that the 609 regulations preclude such mobile recovery and recycling for MVACs on the certification provision at § 82.42(a)(1). In the Applicability Determination dated July 22, 1994, EPA stated that since the certification form specifies the address of the establishment where the equipment will be located, the equipment may therefore not be moved from the address where the service is performed. The Agency also stated in the Determination that while current regulations allow MVACs to be transported to a facility where approved equipment is located and serviced there, that facility may not transport the equipment to a second facility where such equipment is not located, and service the MVAC at the second facility.

EPA is proposing to change these provisions and allow an expanded use of mobile recovery and recycle units. EPA intends to publish an amendment to section 608 of the Act proposing that the same activity be explicitly permitted with respect to the mobile servicing of MVAC-like appliances. EPA believes that the mobile service policy has failed to encourage MVAC service facilities to obtain their own approved equipment or to have their employees certified under section 609. Consequently, today's rulemaking proposes to explicitly permit mobile servicing of MVACs. In its reconsideration, EPA determined that allowing mobile service performed by certified technicians using approved equipment encourages proper use of the equipment and discourages venting of refrigerant. This policy also increases the flexibility of industry to choose the mode of compliance by allowing businesses that do not specialize in MVAC service to contract their MVAC services that involve refrigerant to a section 609 certified technician. The definition of ''properly using'' set forth in § 82.32(e) would consequently be amended to explicitly permit this activity. This proposed provision would apply to servicing both CFC–12 and any substitutes for CFC–12 in MVACs. An MVAC service facility engaging a mobile technician would be responsible to ensure that the technician is properly certified. The technician's showing the facility his section 609 certification card should provide a sufficient demonstration to the facility that he is properly certified. The Agency is interested in receiving comments with respect to whether the MVAC service facility engaging the technician should be responsible to ensure that the technician is using section 609 approved recycling equipment.

The definition of ''properly using'' in section 609(b) provides the Administrator discretion to include the use of mobile recovery and recycling. The certification provision in section 609(d) requires that persons who perform service on MVACs for consideration must acquire and properly use approved equipment for servicing involving refrigerant. Where mobile recovery is involved, the person with the service facility has not acquired approved equipment, but the person who actually performs the service under the proposed provision would be a certified technician using approved equipment acquired by that technician or their employer. EPA believes it is a reasonable interpretation of section 609(d) to allow the use of mobile recovery and recycling under these circumstances, as the text of section 609(d) can be interpreted to include this and it will further the purposes of this section by promoting the proper use of approved equipment and reducing the amount of improper servicing or discharge.

B. Standards for Recover/Recycle Equipment

Section 609 of the Act authorizes the Agency to establish standards for the equipment used in recovering and recycling MVAC refrigerant. Section 82.36(a) of the regulations specifies that equipment that recovers and recycles CFC–12 refrigerant must meet the standards set forth in appendix A. Equipment that only recovers CFC–12 to be reclaimed or recycled by separate equipment must meet the standards set forth in appendix B. Today's rulemaking adds standards for HFC–134a recover/recycle equipment, HFC–134a recover-only equipment, service procedures for HFC–134a containment, purity of recycled HFC–134a, equipment intended for use with both CFC–12 and HFC–134a, and recover-only equipment designed to be used with FRIGC™ or other class I and/or class II refrigerants other than CFC–12.

These standards, proposed today as appendix C, D, E and F to the regulations promulgated under section 609, represent a consensus of the Interior Climate Control Committee of SAE. This committee is made up of automotive industry experts, equipment and supply manufacturers, and chemical producers. SAE issued the standards (SAE J1990, J1991, J1989) later adopted by EPA in appendix A and the Agency believes that the standards set forth in today's rulemaking as appendices C, D, E, and F are consistent with the specifications required in those standards for recovery, recycling, refrigerant purity, and service procedures.

The Agency believes that the standards are appropriate for recovery and recycling because they achieve environmental protection through recycling and containment of refrigerant, and protect automobile equipment through minimum refrigerant purity standards and service

procedure standards. The standards being proposed are based on SAE J2099 (Standard of Purity for Recycled HFC–134a), SAE J2211 (Recommended Service Procedure for the Containment of HFC–134a), SAE J2210 (Standard for HFC–134a Recycling Equipment), SAE J1732 (HFC–134a Extraction Equipment for Mobile Air Conditioning Systems) and SAE J1770 (Standard for Recycling Equipment Intended for Use with Both CFC–12 and HFC–134a).

Appendix F, Standard for Recover-only Equipment that Extracts Class I or Class II Refrigerants Other Than CFC–12, is based on SAE J2209 (CFC–12 Extraction Equipment for Mobile Air Conditioning Systems). Since SAE is not at this time developing a standard specifically for FRIGC™ or any other class I or class II refrigerant other than CFC–12, the Agency developed a standard in cooperation with SAE and other industry representatives. Equipment that is certified by an approved testing organization to meet these SAE standards prior to the proposed standards in this rule becoming final will be considered EPA-approved equipment.

Under section 609 of the Act, standards developed by the Administrator for approved refrigerant recycling equipment shall, at a minimum, be as stringent as SAE J1990 in effect as of November 15, 1990. The standards proposed today as appendices C, D, E and F are as stringent as SAE J1990 regarding the equipment standards for refrigerant purification, equipment testing, and equipment operation and performance. The proposed standards are nearly identical to the SAE J1990 standard, with the exception that the standards proposed today are more stringent than J1990, in that they specify a higher minimum vacuum requirement of 102 mm of mercury, compared to the general requirement in J1990 that refrigerant extraction be performed ''to a vacuum.'' This will help prevent any refrigerant from being vented by ensuring that all refrigerant has been removed from an MVAC system prior to opening it to the atmosphere. Among the provisions contained in the appendices proposed today that are as stringent as those in J1990 are the following: The moisture, acid and particulate removal and non-condensable gas purging requirements of the proposed standards; the requirements for operating instructions and safety requirements; the requirements for overfill, pressure relief, portable tanks and containers, hoses, and lubricant separation; and the testing requirements that verify that the equipment operates properly.

The Act also requires that standards establishing proper service procedures shall, at a minimum, be as stringent as SAE J1989 in effect as of November 15, 1990. The standards proposed today are equally as stringent as the SAE J1989 regarding the recovery, recycling and other handling of refrigerant associated with the servicing of MVACs. The proposed standards are nearly identical to the SAE J1989 standards. SAE J1989 required that the recovery equipment be operated until the pressure be reduced ''to a vacuum''. The proposed standard specifies a vacuum of 102 mm of mercury. The standards provide pressure and temperature tables to provide for safe handling of refrigerant storage containers. The tables are as a stringent as the requirements of J1990.

1. Standards for HFC–134a Recover/Recycle Equipment

Today's proposed rule adopts a standard for HFC–134a recycling equipment for mobile air-conditioning. This standard establishes specific minimum equipment requirements for the recycling of HFC–134a that has been directly removed from, and is intended for reuse in, mobile air-conditioning systems.

Today's proposed rule requires that the recycling equipment meet the standards set forth in appendix C to this rule. The standard contains specifications for labeling the recovery equipment once it is certified, safety requirements, operating instruction and a functional description of the equipment, including hose and fitting specification, overfill protection requirements and storage tank requirements. The standard provides a procedure to test the equipment to verify that it meets the specifications of the standard.

Today's rule adds a standard for purity for recycled HFC–134a that establishes the minimum level of purity required for recycled HFC–134a removed from, and intended for reuse in, mobile air-conditioning systems. The standard sets purity specifications for levels of moisture, lubricant and noncondensable gases, and is set forth in appendix C to this rule.

Today's rule also proposes a standard recommended service procedure for containment of HFC–134a, set forth in appendix C, that provides guidelines for the technicians that service MVACs and operate refrigerant recycling equipment designed for HFC–134a. The proposed standard provides specific procedures to recover the refrigerant by reducing system pressure to at least 102 mm of mercury vacuum. The standard contains requirements for stored refrigerant containers and disposal of empty containers.

The standard set forth in appendix C is nearly identical to the SAE J2210 standard issued by SAE December 1992. The differences between SAE J2210 and appendix C are incidental, such as grammatical corrections and spelling, and do not affect the requirements of the standard.

2. Standard for HFC–134a Recover-Only Equipment

Today's proposed rule adds standards for equipment that recovers refrigerant but does not recycle the refrigerant by removing impurities. Refrigerant recovered by this type of equipment must be properly recycled on-site or reclaimed off-site before it can be reused in an MVAC. The proposed rule requires that equipment meets the standards set forth in appendix D to this rule. The standard requires that the container for used refrigerant be marked in black print ''Dirty Refrigerant—Do Not Use Without Recycling.'' The standard states that the recovery equipment be able to separate the refrigerant from the recovered refrigerant and indicate the amount of lubricant removed so that the technician can return the proper amount of lubricant to the system.

The standard set forth in appendix D is nearly identical to the SAE J1732 standard issued by SAE in December 1994. The differences between SAE J1732 and appendix D are incidental, such as grammatical and spelling, corrections and do not affect the requirements of the standard.

3. Standard for Automotive Refrigerant Recycling Equipment Intended for Use With Both CFC–12 and HFC–134a

Today's proposed rule adds a standard that establishes specific minimum equipment requirements for automotive refrigerant recycling equipment intended for use with both CFC–12 and HFC–134a in a common refrigerant circuit. The proposed rule requires that equipment meets the standards set forth in appendix E to this rule. The proposed standard in appendix E requires labeling of the equipment after certification, and includes requirements to prevent cross contamination before operations involving a different refrigerant can begin. These requirements include interlocks and indications to prevent cross contamination. The standard contains requirements to purify the refrigerant, safety requirements and functional description of the equipment, requirements for labeling of the storage tanks to identify CFC–12 and HFC–

134a, and hose and connection requirements. Today's proposed standard also provides guidelines for testing the equipment to verify that it meets the requirements of the standard.

The standard set forth in appendix E is nearly identical to the SAE J1770 standard issued by SAE in December, 1995. The differences between SAE J1770 and appendix E are incidental, such as grammatical and spelling corrections, and do not affect the requirements of the standard.

4. Standard for Recover-Only Equipment That Extracts Class I or Class II Refrigerants Other Than CFC–12

Today's proposed rule adds standards for equipment that recovers but does not recycle refrigerants other than CFC–12 and HFC–134a. The refrigerant that is recovered by this type of equipment must be properly reclaimed before it can be reused in an MVAC. The proposed rule requires that equipment meets the standards set forth in appendix F. Appendix F is based on the recover-only standard for CFC–12. The standard states that the recovery equipment be able to separate the lubricant from the recovered refrigerant and indicate the amount of lubricant removed so that the technician can return the proper amount of lubricant to the system.

C. Substantially Identical Equipment

Section 609 of the Act provides that equipment purchased before the proposal of standards shall be considered certified if it is substantially identical to equipment certified by the EPA or by an independent standards testing organization approved by EPA. Section 82.36(b) of the regulations states that recover/recycle equipment designed for use with CFC–12 and purchased before the proposal of the standards for refrigerant recycling equipment in appendix A (*i.e.,* before September 4, 1991) shall be considered certified if it is ''substantially identical'' to equipment approved under § 82.36(a).

Today's proposal would apply the Act's ''substantially identical'' provision to recover/recycle and recover-only equipment that services HFC–134a MVACs, recover/recycle equipment intended for use with both CFC–12 and HFC–134a MVACs, and equipment that recovers but does not recycle class I and class II refrigerants other than CFC–12. These types of equipment will be considered approved if they are substantially identical to equipment approved under § 82.36(a) and if they were purchased prior to the date of today's proposal. A manufacturer or owner may request a determination from EPA on the point of whether a particular model is substantially identical.

The Agency's views on implementation of the ''substantially identical'' provision are discussed in some detail in the September 4, 1991 Notice. EPA considers equipment to be substantially identical if it performs equivalently to the equipment that is certified to meet all the approved equipment standards but was purchased prior to the date of publication of the appropriate EPA proposed standard. In general, EPA proposes to follow the same strict approach in implementing the substantially identical provision for the equipment subject to the standards proposed today as for recover/recycle and recover-only equipment that services CFC–12 MVACs. EPA is aware of some cases in which equipment purchased before the publication of the proposal to today's rule was produced by manufacturers that have not yet received a certification on any model or by manufacturers that no longer make equipment. In situations where equipment was purchased without certification and no model by that manufacturer achieves certification, EPA will evaluate the equipment on a model-by-model basis before making a substantially identical determination. Owners of the equipment, if they cannot contact manufacturers to determine the status of equipment, may submit process flowsheets and lists of components to EPA. EPA reserves the right to inspect the equipment and request samples of refrigerant if necessary. The address for submittal of information is: MVACs Recycling Program Manager, Stratospheric Protection Division, (6205J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Substantially Identical Equipment Review. EPA will maintain a strict interpretation of the substantially identical clause in order to protect the air-conditioning units and the integrity of the recycling program. As a result, the Agency does not anticipate that many types of equipment subject to the standards proposed today will qualify as substantially identical through this evaluation procedure.

The Agency is aware that some HFC–134a recover-only equipment has been sold prior to SAE's issuance of the J1732 standard for HFC–134a recover-only equipment in December, 1994 and that some dual refrigerant recycling equipment has been sold prior to SAE's issuance of the J1770 standard for equipment that recovers both CFC–12 and HFC–134a in December, 1995. Because no SAE standard was in place at the time of sale, the equipment could not be certified for EPA approval by UL or ETL. In such an event, *i.e.,* where units are sold prior to the publication of the appropriate SAE standard, so that there is no sticker or plate on the unit showing that the model has been tested by UL or ETL to meet the appropriate SAE standard, and later, after publication of the standard, units of the same model are certified by UL or ETL, the Agency is considering treating the units sold prior to the publication of the standard to be substantially identical. The Agency reserves the right, however, to terminate such treatment of earlier units in the event the Agency receives evidence that some earlier units of that model (e.g., prior to serial number xxxxx) were not able to achieve one or more of the provisions of the appropriate SAE standard. In that instance, the manufacturer will have to demonstrate to EPA that the units in question are substantially identical before EPA would make a determination to that effect. The Agency recognizes that manufacturers of units sold prior to the publication of the appropriate SAE standard may consider developing retrofit kits to bring pre-certification units up to the performance standard of certified units.

It should be noted that some dual refrigerant recycling equipment sold prior to SAE's issuance of the J1770 standard for equipment that recovers both CFC–12 and HFC–134a in December, 1995, may be labeled with a UL or ETL sticker that indicates that the unit meets SAE J–1990 and J–2210. The Agency does not consider that these units necessarily meet the J1770 standard. In the event that later versions of the same model of equipment become certified by UL or ETL to meet the J1770 standard, then, as discussed above, the Agency is considering treating the units sold prior to the publication of the standard to be substantially identical, although EPA reserves the right to terminate this determination as noted above.

The Agency is aware of several models of automotive refrigerant recycling equipment intended for use with both CFC–12 and HFC–134a where units have been sold prior to the publication of SAE standard J1770. These models are the SPX/Robinair model numbers 12134A and 17800A, the White Industries model number 01234a, and the American Thermoflo model number 18000. After reviewing the equipment specifications and performance for each of these models, the Agency proposes to determine that they are substantially identical to equipment EPA would approve

according to the standards set forth in this proposal.

D. Approved Independent Testing Organizations

Section 82.38 establishes the criteria for approval of testing laboratories or organizations to certify whether equipment governed by the regulations meets the standards set forth in the regulations. Under the July 14, 1992 final rule and the May 2, 1995 supplemental final rule, approved organizations would determine whether recover/recycle and recover-only equipment meets the standards set forth in the appendices to the rule, which were based on SAE standards. Today's rulemaking will expand that provision so that these approved organizations will be able to determine whether the equipment subject to today's proposal meets the standards set forth in the appropriate appendices.

Because the application materials received by the Agency from UL on October 21, 1991, and from ETL on November 27, 1991 demonstrate that both organizations have met the criteria set forth in § 82.38(b) with respect to all equipment subject to today's proposal, and because the Agency has received written requests from both UL and ETL stating that all the application criteria are still being met and requesting that they be approved to certify the equipment subject to today's proposal, the Agency intends to approve UL and ETL to certify this equipment, effective as of the effective date of this final rulemaking.

EPA encourages applications from other facilities that are capable of testing equipment to the necessary standards. Organizations must demonstrate that they have the experience and the appropriate equipment to perform testing. The EPA will maintain a list of approved independent standards testing organizations available upon request at the address set forth in § 82.38. The Agency reserves the right to revoke approval if the testing organization violates any of the requirements contained in § 82.38.

E. Technician Training and Certification

Section 82.40 established the standards for programs approved to train and certify technicians. The standards cover training, the subject material that must be covered by each program, and minimum test administration procedures. Summaries of reviews of programs must be submitted every two years and programs must offer technicians proof of certification upon successful completion of the test.

At this time, over twenty organizations have been approved by EPA to train and certify technicians in the use of recover-recycle and recover-only equipment that services CFC–12 MVACs. Ten of these organizations train and certify their employees, while the remaining train members of the general public. While EPA's approval of these organizations has been limited to equipment that services CFC–12 MVACs, the Agency believes that for purposes of training and certification conducted prior to 30 days after the publication of the final rule following this proposal, these organizations should also be considered as approved for purposes of the equipment and refrigerants subject to today's proposal. As discussed below, the design features of recover/ recycle and recover-only equipment subject to today's proposal are very similar to the design features of CFC–12 equipment, and the procedures for extracting refrigerant are very similar for all types of equipment. The organizations have previously shown their compliance with the provisions regarding test administration and proof of certification. Retraining and recertifying of technicians already certified to use CFC–12 equipment would produce only a limited environmental benefit. In addition, such retraining and recertification would impose a large burden on the technicians and the organizations that certify them. For these reasons, EPA intends to approve the 25 organizations noted above for any training and certification of technicians they conducted prior to 30 days after publication of the final rule in the use of the equipment and refrigerants subject to today's proposal.

EPA also intends to approve the above-noted currently approved organizations for future training and certification of technicians for the use of the equipment and refrigerants subject to today's proposal on the condition that the organization certify in writing to the Agency that its training materials discuss the standards set forth in appendices C, D, E, and F, as finally adopted, and that its testing materials include questions concerning those standards. Each of the above organizations that submits such a certification shall be approved upon the date which is the later of (i) the effective date of the final rule, or (ii) the receipt by the Agency of such a certification. Organizations that do not submit such a certification will not be approved to train and certify future technicians for the use of the equipment and refrigerants subject to today's proposal.

As noted above, the prior training and testing of previously approved technicians for CFC–12 equipment adequately and sufficiently covers the standards set forth in appendices C, D, E, and F because of the large overlap between the text of the standard based on SAE J1990 contained in appendix A and the standards based on the SAE standards contained in appendices C, D, E and F. In all of these appendices, the following provisions are identical or nearly identical: safety requirements; requirement that the manufacturer must provide operating instructions; requirement that the equipment must ensure the refrigerant recovery by reducing system pressure below atmospheric to a minimum of 102 mm of mercury; the preconditioning of the equipment with a contaminated sample; the composition of that contaminated sample; the requirement that the equipment must be certified by UL or an equivalent certifying laboratory; the requirement that the label on the equipment must state that it has been design certified to meet applicable SAE standards; and the additional storage tank requirements.

Where the SAE J1990-based standards in appendix A differ from the SAE J1732-based standards in appendices D and F, they differ largely because appendix A contains many provisions that relate to the recycle portion of the equipment operation and which are thus not applicable to appendices D and F. For example, appendix A describes requirements for the recycling test cycle and for the quantitative determination of moisture, lubricant, and noncondensable gas in that cycle.

A review of SAE J1732 indicates that it contains two provisions that relate to the recovery of refrigerant for which there are no equivalent provisions in SAE J1990. First, section 6.3.2 of SAE J1732 requires that the equipment discharge or transfer fitting shall be ½″ ACME thread. SAE did not consider this requirement until after the publication of the final version of J1990. This requirement guards against mixing of different refrigerants by using unique fittings. Second, section 6.1 of SAE J1732 requires that the unit must have a device that assures that refrigerant has been recovered so that outgassing is prevented. Although there is no equivalent to this provision in SAE J1990, J1989 requires safeguards to prevent outgassing.

EPA encourages applications from other organizations that are capable of training and testing technicians. Organizations must demonstrate that they have the appropriate experience to perform the training and testing and

meet the other requirements of § 82.40. The materials must cover the subjects described in 40 CFR 82.40. Approved organizations must demonstrate that the tests they offer will be graded by a computer scanner or disinterested, independent party. The EPA will maintain a list of approved testing and training organizations available upon request at the address set forth in § 82.38. The Agency reserves the right to revoke approval of the organization pursuant to provisions set forth in § 82.40.

F. Sales Restrictions

Section 609 made it unlawful, effective November 15, 1992, for any person to sell or distribute, or offer for sale or distribution, except to section 609 certified technicians, any class I or class II substance suitable for use as refrigerant in a motor vehicle air-conditioning system and that is in a container with less than 20 pounds of refrigerant. Consequently, sales of small cans of CFC–12, as well as small cans of FRIGC and any other HCFC blend which EPA's Significant New Alternatives Policy (SNAP) program may determine to be acceptable as a substitute for CFC–12 in MVACs, are limited to section 609 certified technicians. In addition, section 608 regulations that became effective November 14, 1994 (58 FR 28714) restrict the sales of all containers (regardless of size) of any class I or II refrigerant to technicians certified under either section 608 or section 609 of the Act.

In conjunction with the publication of this proposal for changes to the regulations promulgated under section 609 of the Act, the Agency is proposing in a separate rule several changes to the regulations promulgated under section 608 of the Act. The proposed changes to the section 608 regulations are intended for publication on or about the date of publication of this section 609 proposed rule. The proposed changes to the section 608 regulations, pursuant to the mandate of section 608(c)(2), establish standards and requirements for the servicing of appliances and industrial process refrigeration that use refrigerants that substitute for the currently-regulated class I or class II substances. In addition, in that proposal, the Agency may include a provision proposing to restrict the sale of substitute refrigerants, including HFC–134a, to technicians certified under either section 608 or section 609 of the Act. Should the Agency determine to propose such a sales restriction, the proposed changes to the regulatory text and explanatory discussion in the preamble would be entirely contained in the section 608 proposed rule, even though the changes would also affect industries governed under section 609—automotive refrigerant distributors, automobile manufacturers, and the automotive service industry. All parties interested whether EPA decides to institute a sales restriction are therefore urged to review the language contained in the section 608 proposal.

III. Summary of Supporting Analyses

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may:

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

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

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

It has been determined by OMB and EPA that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order. The Agency prepared an analysis to assess the impact of the proposed regulation (see Regulatory Assessment for EPA's Proposed Rule on Standards and Requirements for Servicing of Motor Vehicle Air Conditioners that use Refrigerants other than Class I or Class II Substances, U.S. EPA Stratospheric Protection Division, November, 1995), which covers both recover/recycle equipment and recover-only equipment, and is available for review in the public docket for this rulemaking.

B. Regulatory Flexibility Analysis

1. Purpose

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency has performed an initial regulatory flexibility analysis and determined that this regulation does not affect a substantial number of small businesses. The analysis is found in Appendix A in the Regulatory Assessment for EPA's Proposed Rule on Standards and Requirements for Servicing of Motor Vehicle Air Conditioners that use Refrigerants other than Class I or Class II Substances (U.S. EPA Stratospheric Protection Division, October, 1995) (Regulatory Assessment) and is available for review in the docket. The methodology and results of the analysis are presented below.

2. Methodology and Results

To examine the impacts on small businesses, EPA first characterized the regulated community by identifying the SIC codes that would be involved in the servicing and repair of motor vehicle air conditioners. After determining the number of these entities that are classified as small by the Small Business Act (SBA), the Agency performed impact tests using sales, profits and cash flow measures. The analysis included least expensive and most expensive private cost scenarios for compliance that were developed for the Regulatory Assessment. The least expensive cost scenario assumed recover/recycle equipment is purchased while the more expensive option assumes dual refrigerant recover/recycle equipment is acquired. The analysis also takes the cost of sending refrigerant out for reclamation, labor, and cost savings from using recycled refrigerant into account.

The analysis indicates that the number of small establishments significantly affected by the regulation ranges from 3.4% if the least expensive compliance option is chosen, to 7.4% if the most expensive compliance option is chosen. The Agency frequently defines a ''substantial number'' of small entities as approximately 20% or more of small establishments. As a result, the Agency certifies that this regulation will not significantly affect a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

C. Paperwork Reduction Act

This proposed rule has no new information requirements subject to the Paperwork Reduction Act.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for 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. Before promulgating an EPA rule for which a written statement is needed, 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.

Today's proposed rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local or tribal governments or the private sector. As the draft Regulatory Assessment demonstrates, EPA believes that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector, in any one year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 82

Environmental protection, Chlorofluorocarbons, Motor vehicle air-conditioning, Reporting and recordkeeping requirements, Recover/recycle equipment, Recover-only equipment, Reporting and certification requirements, Stratospheric ozone layer.

Dated: February 12, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is proposed to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.30 is amended by revising paragraph (a) to read to read as follows:

§ 82.30 Purpose and scope.

(a) The purpose of the regulations in this subpart B is to implement section 609 of the Clean Air Act, as amended (Act) regarding the servicing of motor vehicle air conditioners, and to implement section 608 of the Act regarding certain servicing, maintenance, repair and disposal of air conditioners in motor vehicle-like appliances.

* * * * *

3. Section 82.32 is amended by adding a heading to paragraph (e), by revising paragraph (e)(1), and by adding paragraphs (e)(3), (e)(4), and (i) to read as follows:

§ 82.32 Definitions.

* * * * *

(e) *Properly using.* (1) Properly using means using equipment in conformity with the recommended service procedures and practices for the containment of refrigerant set forth in appendices A, B, C, D, E, and F of this subpart, as applicable.

* * * * *

(3) Refrigerant that is extracted from an MVAC located at a motor vehicle disposal facility must be properly processed through approved refrigerant recycling equipment prior to using it to charge or recharge an MVAC or MVAC-like appliance (as that term is defined in § 82.152(e)), unless the refrigerant has been reclaimed in accordance with this subpart B.

(4) Notwithstanding any other terms of this paragraph (e), approved refrigerant recycling equipment may be transported off-site and used to perform air-conditioning service involving refrigerant at other locations where servicing of MVACs occurs. Any such servicing of MVACs or involving refrigerant must meet all of the requirements of this subpart B that would apply if the servicing occurred on-site.

* * * * *

(i) *Motor vehicle disposal facility* means any commercial facility that engages in motor vehicle disposal, dismantling or recycling, including but not limited to scrap yards, landfills and salvage yards engaged in such operations. Motor vehicle repair facilities, including collision repair facilities, are not considered motor vehicle disposal facilities.

4. Section 82.34 is amended by revising the reference ''§ 82.42(b)(4)'' to read ''§ 82.42(b)(3)'' in paragraph (b); and by adding paragraph (d) to read as follows:

§ 82.34 Prohibitions.

* * * * *

(d) Any person who recovers refrigerant from an MVAC located at a motor vehicle disposal facility must be a certified technician under this subpart B or under subpart F of this part, except for employees, owners, or operators of the disposal facility. Any sale of a class I or class II substance extracted from an MVAC located at such facility must be to a technician certified under this subpart B or under subpart F of this part.

5. Section 82.36 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 82.36 Approved refrigerant recycling equipment.

(a) * * *

(2) Equipment that recovers and recycles refrigerant must meet the standards set forth in appendix A of this subpart (Recommended Service Procedure for the Containment of CFC–12, Extraction and Recycle Equipment for Mobile Automotive Air-Conditioning Systems, and Standard of Purity for Use in Mobile Air Conditioning Systems), appendix C of this subpart (Recommended Service Procedure for the Containment of HFC–134a and Standards for Recover/Recycle Equipment that Extracts and Recycles HFC–134a and Standard of Purity for Recycled HFC–134a for Use in MVACs) and appendix E of this subpart (Automotive Refrigerant Recycling Equipment Intended for Use with both CFC–12 and HFC–134a), as applicable. Equipment that recovers refrigerant for recycling on-site or for reclamation off-site must meet the standards set forth in appendix B of this subpart (Recommended Service Procedure for the Containment of CFC–12, Extraction Equipment for Mobile Automotive Air-Conditioning Systems), appendix D of this subpart (HFC–134a Recover-Only Equipment, Recommended Service Procedure for the Containment of HFC–134a) and appendix F of this subpart (Recover only Equipment that Extracts Class I or Class II Refrigerants Other Than CFC–12), as applicable.

(b)(1) Refrigerant recycling equipment that has not been certified under paragraph (a) of this section shall be considered approved if it is substantially identical to the applicable equipment certified under paragraph (a) of this section, and:

(i) For equipment that recovers and recycles CFC–12 refrigerant, it was purchased before September 4, 1991;

(ii) For equipment that recovers CFC–12 refrigerant for recycling on-site or reclamation off-site, it was purchased before April 22, 1992;

(iii) For equipment that recovers and recycles HFC–134a refrigerant, it was purchased before March 6, 1996;

(iv) For equipment that recovers HFC–134a refrigerant for recycling on-site or reclamation off-site, it was purchased before March 6, 1996.

(v) For equipment that recovers any class I or class II refrigerant other than CFC–12 for recycling on-site or reclamation off-site, it was purchased before March 6, 1996; and

(vi) For equipment that recovers and recycles HFC–134a and CFC–12 refrigerant, it was purchased before March 6, 1996.

(2) Equipment manufacturers or owners may request a determination by the Administrator by submitting an application and supporting documents that indicate that the equipment is substantially identical to approved equipment to: MVACs Recycling Program Manager, Stratospheric Protection Division (6205J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attn: Substantially Identical Equipment Review. Supporting documents must include process flow sheets, lists of components and any other information that would indicate that the equipment is capable of processing the refrigerant to the standards in appendix A, B, C, D, E or F of this subpart, as applicable. Authorized representatives of the Administrator may inspect equipment for which approval is being sought and request samples of refrigerant that has been extracted and/or recycled using the equipment. Equipment that fails to meet appropriate standards will not be considered approved.

* * * * *

6. Section 82.38 is amended by revising paragraphs (a) and (b)(1)(iii) to read as follows:

§ 82.38 Approved independent standards testing organizations.

(a) Any independent standards testing organization may apply for approval by the Administrator to certify equipment as meeting the standards in appendix A, B, C, D, E, or F of this subpart, as applicable. The application shall be sent to: MVACs Recycling Program Manager, Stratospheric Protection Division (6205J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

(b) * * *

(1) * * *

(iii) Thorough knowledge of the standards as they appear in the applicable appendices of this subpart; and

* * * * *

7. Section 82.40 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 82.40 Technician training and certification.

(a) * * *

(2) * * *

(i) The standards established for the service and repair of motor vehicle air conditioners as set forth in appendices A, B, C, D, E, and F of this subpart. These standards relate to the recommended service procedures for the containment of refrigerant, extraction equipment, extraction and recycle equipment, and the standard of purity for refrigerant in motor vehicle air conditioners.

* * * * *

8. Appendix C is added to Subpart B to read as follows:

Appendix C to Part 82, Subpart B—Standard for Recover/Recycle Equipment for HFC–134a Refrigerant

I. SAE J2210, issued December, 1991.

HFC–134a Recycling Equipment for Mobile Air Conditioning Systems

Foreword

The purpose of this standard is to establish the specific minimum equipment specification required for the recycling of HFC–134a that has been directly removed from, and is intended for reuse in, mobile air-conditioning systems. Establishing such specifications will assure that system operation with recycled HFC–134a will provide the same level of performance and durability as new refrigerant.

1. Scope

The purpose of this standard is to establish specific minimum equipment requirements for recycling HFC–134a that has been directly removed from, and is intended for reuse in, mobile air-conditioning (A/C) systems.

2. References

Applicable Documents—The following publications form a part of this specification to the extent specified.

2.1.1 SAE Publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J2099—Standard of Purity for Recycled HFC–134a for Use in Mobile Air-Conditioning Systems.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

SAE J2197—Service Hose Fittings for Automotive Air-Conditioning.

2.1.2 CGA Publications—Available from CGA, 1235 Jefferson Davis Highway, Arlington, VA 22202.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

2.1.3 DOT Publications—Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DOT Standard, 49 CFR 173.304—Shippers—General Requirements for Shipments and Packagings.

2.1.4 UL Publications—Available from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062–2096.

UL 1769—Cylinder Valves.

UL 1963—Refrigerant Recovery/Recycling Equipment.

3. Specification and General Description

3.1 The equipment must be able to remove and process HFC–134a from mobile A/C systems to the purity level specified in SAE J2099.

3.2 The equipment shall be suitable for use in an automotive service garage environment and be capable of continuous operation in ambients from 10 to 49 °C (50 to 120 °F).

3.3 The equipment must be certified that it meets this specification by Underwriters Laboratories (UL) or an equivalent certifying laboratory.

3.4 The equipment shall have a label which states ''Design Certified by (Certifying Agent) to meet SAE J2210'' in bold-type letters a minimum of 3 mm in height.

4. Refrigerant Recycling Equipment Requirements

4.1 Moisture and Acid—The equipment shall incorporate a desiccant package that must be replaced before saturation with moisture, and whose mineral acid capacity is at least 5% by weight of the dry desiccant.

4.1.1 The equipment shall be provided with a moisture detection means that will reliably indicate when moisture in the HFC–134a reaches the allowable limit and desiccant replacement is required.

4.2 Filter—The equipment shall incorporate an in-line filter that will trap particulates of 15 micron spherical diameter or greater.

4.3 Noncondensable Gases.

4.3.1 The equipment shall either automatically purge noncondensables (NCGs) if the acceptable level is exceeded or incorporate a device that indicates to the operator that the NCG level has been exceeded. NCG removal must be part of the normal operation of the equipment and instructions must be provided to enable the task to be accomplished within 30 minutes.

4.3.2 Refrigerant loss from noncondensable gas purging during the testing described in Section 8 shall not exceed 5% by weight of the total contaminated refrigerant removed from the test system.

4.4 Recharging and Transfer of Recycled Refrigerant—Recycled refrigerant for recharging and transfer shall be taken from the liquid phase only.

5. Safety Requirements

5.1 The equipment must comply with applicable federal, state, and local requirements on equipment related to

handling HFC–134a material. Safety precautions or notices related to safe operation of the equipment shall be prominently displayed on the equipment and should also state ''CAUTION—SHOULD BE OPERATED BY QUALIFIED PERSONNEL''.

5.2 HFC–134a has been shown to be nonflammable at ambient temperature and atmospheric pressure. However, tests under controlled conditions have indicated that, at pressures above atmospheric and with air concentrations greater than 60% by volume, HFC–134a can form combustible mixtures. While it is recognized that an ignition source is also required for combustion to occur, the presence of combustible mixtures is a potentially dangerous situation and should be avoided.

5.3 Under NO CIRCUMSTANCES should any equipment be pressure tested or leak tested with air/HFC–134a mixtures. Do not use compressed air (shop air) for leak detection in HFC–134a systems.

6. Operating Instructions

6.1 The equipment manufacturer must provide operating instructions, including proper attainment of vehicle system vacuum (*i.e.*, when to stop the extraction process), filter/desiccant replacement, and purging of noncondensable gases (air). Also to be included are any other necessary maintenance procedures, source information for replacement parts and repair, and safety precautions.

6.2 The equipment must prominently display the manufacturer's name, address, the type of refrigerant it is designed to recycle, a service telephone number, and the part number for the replacement filter/drier.

7. Functional Description

7.1 The equipment must be capable of ensuring removal of refrigerant from the system being serviced by reducing the system pressure to a minimum of 102 mm (4 in) of mercury below atmospheric pressure (*i.e.*, vacuum).

7.2 During operation, the equipment shall provide overfill protection to assure that the liquid fill of the storage container (which may be integral or external) does not exceed 80% of the tank's rated volume at 21.1 °C (70 °F) per Department of Transportation (DOT) Standard, 49 CFR 173.304 and the American Society of Mechanical Engineers.

7.3 Portable refillable tanks or containers used in conjunction with this equipment must be labeled ''HFC–134a'', meet applicable DOT or Underwriters Laboratories (UL) Standards, and shall incorporate fittings per SAE J2197.

7.3.1 The cylinder valve shall comply with the standard for cylinder valves, UL 1769.

7.3.2 The pressure relief device shall comply with the Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases, CGA Pamphlet S–1.1.

7.3.3 The tank assembly shall be marked to indicate the first retest date which shall be 5 years after the date of manufacture. The marking shall indicate that retest must be performed every subsequent 5 years. The marking shall be in letter at least 6 mm (¼ in) high.

7.4 All flexible hoses must comply with SAE J2196.

7.5 Service hoses must have shutoff devices located within 30 cm (12 in) of the connection point to the system being serviced as identified in J2196. All service fittings must comply with SAE J2197.

7.6 The equipment must be able to separate the lubricant from the removed refrigerant and accurately indicate the amount of lubricant removed during the process, in 30 mL (1 fl oz) units. Refrigerant dissolves in lubricants and, as a result, increases the volume of the recovered lubricant sample. This creates the illusion that more lubricant has been recovered than actually has been. The equipment lubricant measuring system must take into account such dissolved refrigerant to prevent overcharging the vehicle system with lubricant. (Note: Use only new lubricant to replace the amount removed during the recycling process. Used lubricant should be discarded per applicable federal, state, and local requirements.)

8. Testing

This test procedure and its requirements are to be used to determine the ability of the recycling equipment to adequately recycle contaminated refrigerant.

8.1 The equipment shall be able to clean the contaminated refrigerant in section 8.3 to the purity level defined in SAE J2099.

8.2 The equipment shall be operated in accordance with the manufacturer's operating instructions.

8.3 Contaminated HFC–134a Sample.

8.3.1 The standard contaminated refrigerant shall consist of liquid HFC–134a with 1300 ppm (by weight) moisture (equivalent to saturation at 38 °C [100 °F]), 45,000 ppm (by weight) HFC–134a compatible lubricant, and 1000 ppm (by weight) of noncondensable gases (air).

8.3.1.1 The HFC–134a compatible lubricant referred to in section 8.3.1 shall be ICI DGLF 118, or equivalent, which shall contain no more than 1000 ppm by weight of moisture.

8.4 Test Cycle.

8.4.1 The equipment must be preconditioned by processing 13.6 kg (30 lb) of the standard contaminated HFC–134a at an ambient of 21 °C (70 °F) before starting the test cycle. 1.13 kg (2.5 lb) samples are to be processed at 5 min intervals. The test fixture, depicted in Figure 1 to Appendix A of this subpart, shall be operated at 21 °C (70 °F).

8.4.2 Following the preconditioning procedure per section 8.4.1, 18.2 kg (40 lb) of standard contaminated HFC–134a are to be processed by the equipment.

8.5 Sample Requirements.

8.5.1 Samples of the standard contaminated refrigerant from section 8.3.1 shall be processed as required in section 8.6 and shall be analyzed after said processing as defined in sections 8.7, 8.8, and section 8.9. Note exception for non-condensable gas determination in section 8.9.4.

8.6 Equipment Operating Ambient.

8.6.1 The HFC–134a is to be cleaned to the purity level, as defined in SAE J2099, with the equipment operating in a stable ambient of 10, 21, and 49 °C (50, 70, 120 °F) while processing the samples as defined in section 8.4.

8.7 Quantitative Determination of Moisture.

8.7.1 The recycled liquid phase sample of HFC–134a shall be analyzed for moisture content via Karl Fischer coulometric titration, or an equivalent method. The Karl Fischer apparatus is an instrument for precise determination of small amounts of water dissolved in liquid and/or gas samples.

8.7.2 In conducting this test, a weighed sample of 30 to 130 g is vaporized directly into the Karl Fischer anolyte. A coulometric titration is conducted and the results are reported as parts per million moisture (weight).

8.8 Determination of Percent Lubricant.

8.8.1 The amount of lubricant in the recycled HFC–134a sample shall be determined via gravimetric analysis. The methodology must account for the hygroscopicity of the lubricant.

8.8.2 Following venting of noncondensable gases in accordance with the manufacturer's operating instructions, the refrigerant container shall be shaken 5 min prior to extracting samples for testing.

8.8.3 A weighed sample of 175 to 225 g of liquid HFC–134a is allowed to evaporate at room temperature. The percent lubricant is calculated from weights of the original sample and the residue remaining after evaporation.

8.9 Noncondensable Gases.

8.9.1 The amount of noncondensable gases shall be determined by gas chromatography. A sample of vaporized refrigerant liquid shall be separated and analyzed by gas chromatography. A Porapak Q column at 130 °C (266 °F) and a hot wire detector may be used for the analysis.

8.9.2 This test shall be conducted on liquid phase samples of recycled refrigerant taken from a full container as defined in section 7.2 within 30 minutes following the proper venting of noncondensable gases.

8.9.3 The liquid phase samples in section 8.9.2 shall be vaporized completely prior to gas chromatographic analysis.

8.9.4 This test shall be conducted at 21 and 49 °C (50 and 120 °F) and may be performed in conjunction with the testing defined in section 8.6. The equipment shall process at least 13.6 kg (30 lb) of standard contaminated refrigerant for this test.

Rationale

Not applicable.

Relationship of Standard to ISO Standard

Not applicable.

Application

The purpose of this standard is to establish the specific minimum equipment requirements for recycling HFC–134a that has been directly removed from, and is intended for reuse in, mobile air-conditioning (A/C) systems.

Reference Section

SAE J2099—Standard of Purity for Recycled HFC–134a for Use in Mobile Air-Conditioning Systems.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

SAE J2197—Service Hose Fittings for Automotive Air-Conditioning.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

UL 1769—Cylinder Valves.

UL 1963—Refrigerant Recovery/Recycling Equipment.

DOT Standard, 49 CFR 173.304—Shippers—General Requirements for Shipment and Packagings.

II. SAE J2211, issued December, 1991.

Recommended Service Procedure for the Containment of HFC–134a

1. Scope

Refrigerant containment is an important part of servicing mobile air-conditioning systems. This procedure provides guidelines for technicians for servicing mobile air-conditioning systems and operating refrigerant recycling equipment designed for HFC–134a (described in SAE J2210).

2. References

2.1 Applicable Documents—The following publications form a part of this specification to the extent specified. The latest issue of SAE publications shall apply.

2.1.1 SAE Publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

SAE J2197—Service Hose Fittings for Automotive Air-Conditioning.

SAE J2210—Refrigerant Recycling Equipment for HFC–134a Mobile Air-Conditioning Systems.

SAE J2219—Concerns to the Mobile Air-Conditioning Industry.

2.2 Definitions.

2.2.1 Recovery/Recycling (R/R) Unit—Refers to a single piece of equipment that performs both functions of recovery and recycling of refrigerants per SAE J2210.

2.2.2 Recovery—Refers to that portion of the R/R unit operation that removes the refrigerant from the mobile air-conditioning system and places it in the R/R unit storage container.

2.2.3 Recycling—Refers to that portion of the R/R unit operation that processes the refrigerant for reuse on the same job site to the purity specifications of SAE J2099.

3. Service Procedure

3.1 Connect the recycling unit service hoses, which shall have shutoff devices (*e.g.*, valves) within 30 cm (12 in) of the service ends, to the vehicle air-conditioning (A/C) service ports. Hoses shall conform to SAE J2196 and fittings shall conform to SAE J2197.

3.2 Operate the recycling equipment per the equipment manufacturer's recommended procedure.

3.2.1 Verify that the vehicle A/C system has refrigerant pressure. Do not attempt to recycle refrigerant from a discharged system as this will introduce air (noncondensable gas) into the recycling equipment which must later be removed by purging.

3.2.2 Begin the recycling process by removing the refrigerant from the vehicle A/C system. Continue the process until the system pressure has been reduced to a minimum of 102mm (4 in) of mercury below atmospheric pressure (*i.e.*, vacuum). If A/C components show evidence of icing, the component can be gently heated to facilitate refrigerant removal. With the recycling unit shut off for at least 5 minutes, check A/C system pressure. If this pressure has risen above vacuum (0 psig), additional recycler operation is required to remove the remaining refrigerant. Repeat the operation until the system pressure remains stable at vacuum for 2 minutes.

3.3 Close the valves in the service lines and then remove the service lines from the vehicle system. If the recovery equipment has automatic closing valves, be sure they are operating properly. Proceed with the repair/service.

3.4 Upon completion of refrigerant removal from the A/C system, determine the amount of lubricant removed during the process and replenish the system with new lubricant, which is identified on the A/C system label. Used lubricant should be discarded per applicable federal, state, and local requirements.

4. Service with a Manifold Gauge Set

4.1 High-side, low-side, and center service hoses must have shutoff devices (*e.g.*, valves) within 30 cm (12 in) of the service ends. Valves must be closed prior to hose removal from the A/C system to prevent refrigerant loss to the atmosphere.

4.2 During all service operations, service hose valves should be closed until connected to the vehicle A/C system or to the charging source to exclude air and/or contain the refrigerant.

4.3 When the manifold gauge set is disconnected from the A/C system, or when the center hose is moved to another device that cannot accept refrigerant pressure, the gauge set hoses should be attached to the recycling equipment to recover the refrigerant from the hoses.

5. Supplemental Refrigerant Checking Procedure for Stored Portable Containers

5.1 Certified recycling equipment and the accompanying recycling procedure, when properly followed, will deliver use-ready refrigerant. In the event that the full recycling procedure was not followed or the technician is unsure about the noncondensable gas content of a given tank of refrigerant, this procedure can be used to determine whether the recycled refrigerant container meets the specification for noncondensable gases (air). (Note: The use of refrigerant with excess air will result in higher system operating pressures and may cause A/C system damage.)

5.2 The container must be stored at a temperature of 18.3 °C (65 °F) or above for at least 12 hours, protected from direct sunlight.

5.3 Install a calibrated pressure gauge, with 6.9 kPa (1 psig) divisions, on the container and read container pressure.

5.4 With a calibrated thermometer, measure the air temperature within 10 cm (4 in) of the container surface.

5.5 Compare the observed container pressure and air temperature to the values given in Tables 1 and 2 to determine whether the container pressure is below the pressure limit given in the appropriate table. For example, at an air temperature of 21 °C (−70 °F) the container pressure must not exceed 524 kPa (76 psig).

5.6 If the refrigerant in the container has been recycled and the container pressure is less than the limit in Tables 1 and 2, the refrigerant may be used.

5.7 If the refrigerant in the container has been recycled and the container pressure exceeds the limit in Tables 1 and 2, slowly vent, from the top of the container, a small amount of vapor into the recycle equipment until the pressure is less than the pressure shown in Tables 1 and 2.

5.8 If, after shaking the container and letting it stand for a few minutes, the container pressure still exceeds the pressure limit shown in Tables 1 and 2, the entire contents of the container shall be recycled.

TABLE 1.—MAXIMUM ALLOWABLE CONTAINER PRESSURE (METRIC)

Temp, C(F)	kPa
18 (65)	476
19 (66)	483
20 (68)	503
21 (70)	524
22 (72)	545
23 (73)	552
24 (75)	572
25 (77)	593
26 (79)	621
27 (81)	642
28 (82)	655
29 (84)	676
30 (86)	703
31 (88)	724
32 (90)	752
33 (91)	765
34 (93)	793
35 (95)	814
36 (97)	841
37 (99)	876
38 (100)	889
39 (102)	917
40 (104)	945
41 (106)	979
42 (108)	1007
43 (109)	1027
44 (111)	1055
45 (113)	1089
46 (115)	1124
47 (117)	1158
489 (118)	1179
49 (120)	1214

TABLE 2.—MAXIMUM ALLOWABLE CONTAINER PRESSURE (ENGLISH)

Temp, F	Psig
65	69
66	70
67	71
68	73
69	74
70	76
71	77
72	79
73	80
74	82
75	83
76	85
77	86
78	88
79	90

TABLE 2.—MAXIMUM ALLOWABLE CONTAINER PRESSURE (ENGLISH)—Continued

Temp, F	Psig
80	91
81	93
82	95
83	96
84	98
85	100
86	102
87	103
88	105
89	107
90	109
91	111
92	113
93	115
94	117
95	118
96	120
97	122
98	125
99	127
100	129
101	131
102	133
103	135
104	137
105	139
106	142
107	144
108	146
109	149
110	151
111	153
112	156
113	158
114	160
115	163
116	165
117	168
118	171
119	173
120	176

6. Containers for Storage of Recycled Refrigerant

6.1 Recycled refrigerant should not be salvaged or stored in disposable containers (this is one common type of container in which new refrigerant is sold). Use only DOT 49 CFR or UL approved storage containers, specifically marked for HFC–134a, for recycled refrigerant.

6.2 Any container of recycled refrigerant that has been stored or transferred must be checked prior to use as defined in Section 5.

6.3 Evacuate the tanks to at least 635 mm Hg (25 in Hg) below atmospheric pressure (vacuum) prior to first use.

7. Transfer of Recycled Refrigerant

7.1 When external portable containers are used for transfer, the container must be evacuated to at least 635 mm (25 in Hg) below atmospheric pressure (vacuum) prior to transfer of the recycled refrigerant to the container. External portable containers must meet DOT and UL standards.

7.2 To prevent on-site overfilling when transferring to external containers, the safe filling level must be controlled by weight and must not exceed 60% of the container gross weight rating.

8. Safety Note for HFC–134a

8.1 HFC–134a has been shown to be nonflammable at ambient temperature and atmospheric pressure. However, recent tests under controlled conditions have indicated that, at pressures above atmospheric and with air concentrations greater than 60% by volume, HFC–134a can form combustible mixtures. While it is recognized that an ignition source is also required for combustion to occur, the presence of combustible mixtures is a potentially dangerous situation and should be avoided.

8.2 Under NO CIRCUMSTANCE should any equipment be pressure tested or leak tested with air/HFC–134a mixtures. Do not use compressed air (shop air) for leak detection in HFC–134a systems.

9. Disposal of Empty/Near Empty Containers

9.1 Since all refrigerant may not have been removed from disposable refrigerant containers during normal system charging procedures, empty/near empty container contents should be recycled prior to disposal of the container.

9.2 Attach the container to the recycling unit and remove the remaining refrigerant. When the container has been reduced from a pressure to vacuum, the container valve can be closed and the container can be removed from the unit. The container should be marked ''Empty'', after which it is ready for disposal.

III. SAE J2099, issued December, 1991.

Standard of Purity for Recycled HFC–134a for Use in Mobile Air Conditioning Systems

Foreword

The purpose of this standard is to establish the minimum level of purity required for recycled HFC–134a removed from, and intended for reuse in, mobile air-conditioning systems.

1. Scope

This standard applies to HFC–134a refrigerant used to service motor vehicle passenger compartment air-conditioning systems designed or retrofitted to use HFC–134a. Hermetically sealed, refrigerated cargo systems are not covered by this standard.

2. References

2.1 Applicable Documents—The following publications form a part of this specification to the extent specified. The latest issue of SAE publications shall apply.

2.1.1 SAE publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J2210—HFC–134a Recycling Equipment for Mobile Air-Conditioning Systems.

SAE J2211—Recommended Service Procedure for the Containment of HFC–134a.

3. Purity Specification

The refrigerant referred to in this standard shall have been directly removed from, and intended to be returned to, a mobile air-conditioning system. Contaminants in this recycled refrigerant shall be limited to moisture, refrigerant system lubricant, and noncondensable gases, which, when measured in the refrigerant liquid phase, shall not exceed the following levels:

3.1 Moisture—50 ppm by weight.

3.2 Lubricant—500 ppm by weight.

3.3 Noncondensable Gases (Air)—150 ppm by weight.

4. Requirements for Recycle Equipment Used in Direct Mobile Air-Conditioning Service Operations

4.1 Such equipment shall meet J2210, which covers additional moisture, acid, and filter requirements.

5. Purity of HFC–134a Supplied from Other Sources

The purity of HFC–134a refrigerant supplied in containers from other sources shall, for servicing mobile air-conditioning systems, meet the refrigerant manufacturer's specification for new HFC–134a intended for mobile air-conditioning system use.

6. Operation of the Recycle Equipment

Recycle equipment operation shall be in accord with SAE J2211.

Application

This Standard applies to HFC–134a refrigerant used to service motor vehicle passenger compartment air-conditioning systems designed or retrofitted to use HFC–134a. Hermetically sealed, refrigerated cargo systems are not covered by this standard.

Reference Section

SAE J2210—HFC–134a Recycling Equipment for Mobile Air-Conditioning Systems.

SAE J2211—Recommended Service Procedure for the Containment of HFC–134a.

9. Appendix D is added to Subpart B to read as follows:

Appendix D to Part 82, Subpart B—Standard for HFC–134a Recover-Only Equipment

SAE J2211, Recommended Service Procedure for Containment of HFC–134a, as set forth under Appendix C of this subpart, also applies to this Appendix D.

SAE J1732, issued December, 1994.

HFC–134a (R–134a) Extraction Equipment for Mobile Automotive Air-Conditioning Systems

Foreword

Appendix C of this part established equipment specifications for on-site recovery and reuse of HFC–134a in air-conditioning systems. These specifications are for HFC–134a extraction only equipment that are intended to be used in conjunction with the on-site recycling equipment currently used at service facilities, or allow for off-site refrigerant reclamation.

1. Scope

a. The purpose of this standard is to provide equipment specification for only the recovery of HFC–134a refrigerant to be returned to a refrigerant reclamation facility that will process it to ARI Standard 700–93 or allow for recycling of the recovered refrigerant to SAE J2210 specifications by using Design Certified equipment of the same

ownership. It is not acceptable that refrigerant removed from a mobile air conditioning system with this equipment be directly returned to a mobile air-conditioning system.

b. This information applies to equipment used to service automobiles, light trucks, and other vehicles with similar HFC–134a air conditioning systems.

2. References

2.1 Applicable Documents—The following publications form a part of this specification to the extent specified.

2.1.1 SAE Publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J639—Vehicle Service Coupling.

SAE J2210—HFC–134a Recycling Equipment for Mobile Automotive Air Conditioning Systems.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

SAE J2197—Service Hose Fittings for Automotive Air-Conditioning.

2.1.2 ARI Publication—Available from Air Conditioning and Refrigerant Institute, 1501 Wilson Blvd. Sixth Floor, Arlington, VA 22209.

ARI 700–93—Specifications for Fluorocarbon Refrigerants.

2.1.3 CGA Publications—Available from CGA, 1235 Jefferson Davis Highway, Arlington, VA 22202.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

2.1.4 DOT Publications—Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DOT Standard, 49 CFR 49 173.304 Shippers—General Requirements for Shipments and Packagings.

2.1.5 UL Publications—Available from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062–2096.

UL 1769—Cylinder Valves.

3. Specification and General Description

3.1 The equipment must be able to extract HFC–134a from a mobile air-conditioning system.

3.2 The equipment shall be suitable for use in an automotive service garage environment as defined in section 6.8.

3.3 Equipment Certification—The equipment shall be certified by Underwriters Laboratories or an equivalent certifying laboratory to meet this standard.

3.4 Label Requirements—The equipment shall have a label ''Design Certified by (Company Name) to meet SAE J1732 for use only with HFC–134a. The refrigerant from this equipment must be processed to ARI 700–93 specifications or to SAE J2210 specifications by using Design Certified equipment of the same ownership.'' The minimum letter size shall be bold type 3 mm in height.

4. Safety Requirements

4.1 The equipment must comply with applicable federal, state, and local requirements on equipment related to the handling of HFC–134a material. Safety precautions or notices or labels related to the safe operation of the equipment shall also be prominently displayed on the equipment and should state ''CAUTION—SHOULD BE OPERATED BY CERTIFIED PERSONNEL.'' The safety identification shall be located on the front near the controls.

4.2 The equipment must comply with applicable safety standards for electrical and mechanical requirements.

5. Operating Instructions

5.1 The equipment manufacturer must provide operating instructions that include information required by SAE J1629, necessary maintenance procedures, and source information for replacement parts and repair.

5.1.1 The instruction manual shall include the following information on the lubricant removed. Only new lubricant, as identified by the system manufacturer, should be replaced in the mobile air conditioning system. Removed lubricant from the system and/or the equipment shall be disposed of in accordance with the applicable federal, state, and local procedures and regulations.

5.2 The equipment must prominently display the manufacturer's name, address, the type of refrigerant it is designed to extract, a service telephone number, and any items that require maintenance or replacement that affect the proper operation of the equipment. Operation manuals must cover information for complete maintenance of the equipment to assure proper operation.

6. Functional Description

6.1 The equipment must be capable of ensuring removal of refrigerant from the system being serviced by reducing the system pressure to a minimum of 102 mm (4 in) of mercury below atmospheric pressure (*i.e.*, vacuum). To prevent system delayed outgassing, the unit must have a device that assures the refrigerant has been recovered from the air-conditioning system.

6.1.1 Testing laboratory certification of the equipment capability is required which shall process contaminated refrigerant samples at specific temperatures.

6.2 The equipment must be preconditioned by processing 13.6 kg (30 lb) of the standard contaminated HFC–134a at an ambient of 21 °C (70 °F) before starting the test cycle. Sample amounts are not to exceed 1.13 kg (2.5 lb) with sample amounts to be repeated every 5 minutes. The test fixture shown in Figure 1 to Appendix A of this subpart shall be operated at 21 °C. Contaminated HFC–134a samples shall be processed at ambient temperatures of 10 and 49 °C, without equipment shutting due to any safety devices employed in this equipment.

6.2.1 Contaminated HFC–134a sample

6.2.2 Standard contaminated HFC–134a refrigerant, 13.6 kg sample size, shall consist of liquid HFC–134a with 1300 ppm (by weight) moisture at 21 °C and 45,000 ppm (by weight) of oil (polyalkylene glycol oil with 100 cs viscosity at 40 °C or equivalent) and 1000 ppm by weight of noncondensable gases (air).

6.3 Portable refillable containers used in conjunction with this equipment must meet applicable DOT Standards.

6.3.1 The container color must be blue with a yellow top to identify that it contains used HFC–134a refrigerant. It must be permanently marked on the outside surface in black print at least 20 mm high ''DIRTY HFC–134a—DO NOT USE, MUST BE REPROCESSED''.

6.3.2 The portable refillable container shall have a ½ inch ACME thread.

6.3.3 During operation, the equipment shall provide overfill protection to assure that the storage container liquid fill does not exceed 80% of the tank's rated volume at 21 °C per DOT Standard, 49 CFR 173.304 and the American Society of Mechanical Engineers.

6.4 Additional Storage Tank Requirements.

6.4.1 The cylinder valve shall comply with UL 1769.

6.4.2 The pressure relief device shall comply with CGA Pamphlet S–1.1.

6.4.3 The container assembly shall be marked to indicate the first retest date, which shall be 5 years after date of manufacture. The marking shall indicate that retest must be performed every subsequent 5 years. The markings shall be in letters at least 6 mm high.

6.5 All flexible hoses must meet SAE J2196 for service hoses.

6.6 Service hoses must have shutoff devices located within 30 cm (12 in) of the connection point to the system being serviced to minimize introduction of noncondensable gases into the recovery equipment during connection and the release of the refrigerant during disconnection.

6.7 The equipment must be able to separate the lubricant from recovered refrigerant and accurately indicate the amount removed from the simulated automotive system during processing in 30 mL units.

6.7.1 The purpose of indicating the amount of lubricant removed is to ensure that a proper amount of new lubricant is returned to the mobile air conditioning system for compressor lubrication.

6.7.2 Refrigerant dissolved in this lubricant must be accounted for to prevent system lubricant overcharge of the mobile air-conditioning system.

6.8 The equipment must be capable of continuous operation in ambient temperatures of 10 °C to 49 °C and comply with sections 6.1 and 6.2.

7. For test validation, the equipment is to be operated according to the manufacturer's instructions.

Application

a. The purpose of this standard is to provide equipment specification for only the recovery of HFC–134a refrigerant to be returned to a refrigerant reclamation facility that will process it to ARI Standard 700–93 or allow for the recycling of the recovered refrigerant to SAE J2210 specifications by using Design Certified equipment of the same ownership. It is not acceptable that the refrigerant removed from a mobile air-conditioning system with this equipment be directly returned to a mobile air-conditioning system.

b. This information applies to equipment used to service automobiles, light trucks, and other vehicles with similar HFC–134a air-conditioning systems.

Reference Section

SAE J639—Vehicle Service Coupling.

SAE J2210—HFC–134a Recycling Equipment for Mobile Automotive Air Conditioning Systems.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

ARI 700–93—Specifications for Fluorocarbon Refrigerants.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

UL 1769—Cylinder Valves.

49 CFR 173.304 —Shippers—General Requirements for Shipment and Packagings.

10. Appendix E is added to Subpart B to read as follows:

Appendix E to Part 82, Subpart B—The Standard for Automotive Refrigerant Recycling Equipment Intended for Use with both CFC–12 and HFC–134a

SAE J2211, Recommended Service Procedure for the Containment of HFC–134a, as set forth under Appendix C of this subpart, and SAE J1989, Recommended Service Procedure for the Containment of CFC–12, as set forth under Appendix A of this subpart, also apply to this Appendix E.

SAE J1770, issued December, 1995.

Automotive Refrigerant Recycle Equipment Intended for Use with Both CFC–12 and HFC–134a

Foreword

The purpose of this standard is to establish specific minimum equipment requirements for automotive refrigerant recycling equipment intended for use with both CFC–12 and HFC–134a in a common refrigerant circuit. Establishing such specifications will assure that this equipment does not cross contaminate refrigerant above specified limits when used under normal operating conditions.

1. Scope

The purpose of this standard is to establish the specific minimum equipment intended for use with both CFC–12 and HFC–134a in a common refrigerant circuit that has been directly removed from, and is intended for reuse in, mobile air-conditioning (A/C) systems. This standard does not apply to equipment used for CFC–12 and HFC–134a having a common enclosure with separate circuits for each refrigerant.

2. References

2.1 Applicable Documents—The following publications form a part of this specification to the extent specified. The latest issue of SAE publications shall apply.

2.1.1 SAE Publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J2099—Standard of Purity for Recycled HFC–134a for Use in Mobile Air-Conditioning Systems.

SAE 1991—Standard of Purity for Use in Mobile Air-Conditioning Systems.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

SAE J2197—Service Hose Fittings for Automotive Air-Conditioning.

SAE J2210—HFC–134a (R–134a) Recycling Equipment for Mobile A/C Systems.

SAE J1990—Extraction and Recycling Equipment for Mobile A/C Systems.

2.1.2 Compressed Gas Association (CGA) Publications—Available from CGA, 1235 Jefferson Davis Highway, Arlington, VA 22202.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

2.1.3 DOT Publications—Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

2.1.4 UL Publications—Available from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062–2096.

UL 1769—Cylinder Valves.

UL 1963—Refrigerant Recovery/Recycling Equipment.

3. Specification and General Description

3.1 The equipment shall be suitable for use in an automotive service garage environment and be capable of continuous operation in ambients from 10 to 49 °C.

3.2 The equipment must be certified that it meets this specification by Underwriters Laboratories Inc. (UL), or by an equivalent Nationally Recognized Testing Laboratory (NRTL).

3.3 The equipment shall have a label which states ''Design Certified by (Certifying Agent) to meet SAE J1770 for recycling CFC–12 and HFC–134a using common refrigerant circuits'', in bold-type letters a minimum of 3 mm in height.

4. Equipment Requirements

4.1 General.

4.1.1 The equipment shall be capable of preventing cross contamination to the level required by Section 9.2.1.G before an operation involving a different refrigerant can begin. The equipment must prevent initiation of the recovery operation if the equipment is not set up properly.

4.1.2 If an operator action is required to clear the unit prior to reconnecting for a different refrigerant, the equipment shall be provided with a means which indicates which refrigerant was last processed.

4.1.3 Means shall be provided to prevent recovery from both an CFC–12 and HFC–134a mobile air conditioning system concurrently.

4.1.4 Transfer of recycled refrigerant—Recycled refrigerant for recharging and transfer shall be taken from the liquid phase only.

4.2 Seat Leakage Test.

4.2.1 Valves, including electrically operated solenoid valves, that are used to isolate CFC–12 and HFC–134a refrigerant circuits, shall have a seat leakage rate not exceeding 15 g/yr (½ oz/yr) before and after 100,000 cycles of operation. This Endurance Test shall be conducted with HFC–134a at maximum operating pressure as determined by sections 8.1 and 8.2. The Seat Leakage Test shall be performed at 1.5 times this pressure at an ambient of 24 °C.

4.3 Interlocks.

4.3.1 Electrical interlock devices used to prevent cross contamination of refrigerant shall be operated for 100,000 cycles and there shall be no failure that would permit cross contamination of refrigerant. Solid state interlock devices shall comply with the Transient Overvoltage Test and the Fast Transient (Electric Noise) Test contained in the Standard for Tests for Safety Related Controls Employing Solid-State Devices, UL 991.

4.4 Noncondensable Gases

4.4.1 The equipment shall either automatically purge noncondensables (NCGs) if the acceptable level is exceeded or incorporate a device that indicates to the operator the NCG level has been exceeded. A pressure gauge used to indicate an NCG level shall be readable in 1 psig increments. NCG removal must be part of the normal operation of the equipment and instructions must be provided to enable the task to be accomplished within 30 minutes.

4.4.2 Refrigerant loss from noncondensable gas purging, oil removal, and refrigerant clearing shall not exceed more than 5 percent by weight of the total amount of refrigerant through the equipment as detailed in Sections 8.1, 8.2, and 9.2.

4.5 Filter.

4.5.1 A 15 micron filter, or other equivalent means, to remove particulates of 15 micrometers spherical diameter or greater shall be located before any manual electrically operated valves that may cause cross contamination.

4.6 Moisture and Acid.

4.6.1 The equipment shall incorporate a desiccant package that must be replaced before saturated with moisture, and whose acid capacity is at least 5% by weight of the dry desiccant.

4.6.2 The equipment shall be provided with a moisture detection means that will reliably indicate when moisture in the HFC–134a exceeds 50 ppm, or in the CFC–12 exceeds 15 ppm, and requires the filter/dryer replacement.

5. Operating Instructions

5.1 The equipment manufacturer must provide operating instructions, including proper attainment of vehicle system vacuum (i.e., when to stop the extraction process, and also to stop the extraction process if it is noticed that the A/C system being serviced has a leak), filter/desiccant replacement, and purging of noncondensable gases (air). The instructions shall indicate that the correct sequence of operation be followed so that the equipment can properly remove contaminates to the acceptable level. Also to be included are any other necessary maintenance procedures, source information for replacement parts and repair, and safety precautions.

5.2 The equipment must prominently display the manufacturer's name, address, the type of refrigerant (CFC–12 and HFC–134a), a service telephone number, and the part number for the replacement filter/drier. Operation manuals must cover information for complete maintenance of the equipment to assure proper operation.

6. Safety Requirements

6.1 The equipment must comply with applicable federal, state, and local requirements on equipment related to handling CFC–12 and HFC–134a material.

Safety precautions or notices related to the safe operation of the equipment shall be prominently displayed on the equipment and should also state ''CAUTION—SHOULD BE OPERATED BY QUALIFIED PERSONNEL''.

6.2 HFC–134a has been shown to be nonflammable at ambient temperature and atmospheric pressure. The following statement shall be in the operating manual: ''Caution: HFC–134a service equipment or vehicle A/C systems should not be pressure tested or leak tested with compressed air. Some mixtures of air and HFC–134a have been shown to be combustible at elevated pressures (when contained in a pipe or tank). These mixtures may potentially dangerous, causing injury or property damage. Additional health and safety information may be obtained from refrigerant and lubricant manufacturers.''

7. Functional Description

7.1 General.

7.1.1 The equipment must be capable of ensuring recovery of the CFC–12 and HFC–134a from the system being serviced, by reducing the system to minimum of 102 mm of mercury below atmospheric pressure (*i.e.*, vacuum).

7.1.2 The equipment must be compatible with leak detection material that may be present in the mobile A/C system.

7.2 Shut Off Device.

7.2.1 To prevent overcharge, the equipment must be equipped to protect the tank used to store the recycled refrigerant with a shutoff device and a mechanical pressure relief valve.

7.3 Storage Tanks.

7.3.1 Portable refillable tanks or containers shall be supplied with this equipment and must be labeled ''HFC–134a'' or ''CFC–12'' as appropriate, meet applicable Department of Transportation (DOT) or NRTL's Standards and be adaptable to existing refrigerant service and charging equipment.

7.3.2 The cylinder valve shall comply with the Standard for Cylinder Valves, UL 1769.

7.3.3 The pressure relief device shall comply with the Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases, CGA Pamphlet S–1.1.

7.3.4 The tank assembly shall be marked to indicate the first retest date, which shall be 5 years after the date of manufacture. The marking shall indicate that retest must be performed every subsequent 5 years. The marking shall be in letters at least 6 mm high.

7.4 Overfill Protection.

7.4.1 During operation, the equipment must provide overfill protection to assure that during filling or transfer, the tank or storage container cannot exceed 80% of volume at 21.1 °C of its maximum rating as defined by DOT standards, 49 CFR 173.304 and American Society of Mechanical Engineers.

7.5 Hoses and Connections.

7.5.1 Separate inlet and outlet hoses with fittings and separate connections shall be provided for each refrigerant circuit.

7.5.2 All flexible hoses and fittings must meet SAE J2196 (for CFC–12) and SAE J2197 (for HFC–134a).

7.5.3 Service hoses must have shutoff devices located within 30 cm of the connection point to the system being serviced.

7.6 Lubricant Separation.

7.6.1 The equipment must be able to separate the lubricant from the removed refrigerant and accurately indicate the amount of lubricant removed during the process, in 30 ml (1 fl oz) units. Refrigerant dissolves in lubricant and, as a result, increases the volume of the recovered lubricant sample. This creates the illusion that more lubricant has been recovered than actually has been. The equipment lubricant measuring system must take into account such dissolved refrigerant removed from the A/C system being serviced to prevent overcharging the vehicle system with lubricant. (Note: Use only new lubricant to replace the amount removed during the recycling process. Used lubricant should be discarded per applicable federal, state and local requirements.)

7.6.2 The equipment must be provided with some means, such as a lockout device, which will prevent initiation of the recovery operation after switching to the other refrigerant, if the lubricant has not been drained from the oil separator.

8. Testing

8.0 Equipment shall be tested in sequence as noted in sections 8.1, 8.2 and 9.2. The filter/dryer may be replaced only as noted by section 4.6.2.

8.1 CFC–12 Recycling Cycle.

8.1.1 The maximum operating pressure of the equipment shall be determined when recycling CFC–12 while conducting the following tests. This pressure is needed for the Seat Leakage Test, Section 4.2.

8.1.2 The equipment must be preconditioned with 13.6 kg of the standard contaminated CFC–12 (see section 8.1.2a) at an ambient of 21 °C before starting the test cycle. Sample amounts shall be 1.13 kg with sample amounts to be repeated every 5 minutes. The sample method fixture, defined in Figure 1 to Appendix A of this subpart, shall be operated at 21 °C.

8.1.2a Standard contaminated CFC–12 refrigerant shall consist of liquid CFC–12 with 100 ppm (by weight) moisture at 21°C and 45,000 ppm (by weight) mineral oil 525 suspension viscosity nominal and 770 ppm by weight of noncondensable gases (air).

8.1.3 The high moisture contaminated sample shall consist of CFC–12 vapor with 1000 ppm (by weight) moisture.

8.1.4 The high oil contaminated sample shall consist of CFC–12 with 200,000 ppm (by weight) mineral oil 525 suspension viscosity nominal.

8.1.5 After preconditioning as stated in section 8.1.2, the test cycle is started, processing the following contaminated samples through the equipment.

A. 13.6 kg (1.13 kg per batch) of standard contaminated CFC–12.

B. 1 kg of high oil contaminated CFC–12.

C. 4.5 kg (1.13 kg per batch) of standard contaminated CFC–12.

D. 1 kg of high moisture contaminated CFC–12.

8.1.6 The CFC–12 is to be cleaned to the minimum purity level, as defined in SAE J1991, with the equipment operating in a stable ambient of 10, 21, and 49 °C and processing the samples as defined in section 8.1.5.

8.2 HFC–134a Recycling Cycle.

8.2.1 The maximum operating pressure of the equipment shall be determined when recycling HFC–134a while conducting the following tests. This pressure is needed for the Seat Leakage Test, Section 4.2.

8.2.2 The equipment must be preconditioned by processing 13.6 kg of the standard contaminated HFC–134a (see section 8.2.2a) at an ambient of 21 °C before starting the test cycle. 1.13 kg samples are to be processed at 5 minute intervals. The text fixture shown in Figure 1 to Appendix A of this subpart shall be operated at 21 °C.

8.2.2a The standard contaminated refrigerant shall consist of liquid HFC–134a with 1300 ppm (by weight) moisture (equivalent to saturation at 38 °[100 °F]), 45,000 ppm (by weight) HFC–134a compatible lubricant, and 1000 ppm (by weight) of noncondensable gases (air).

8.2.2b The HFC–134a compatible lubricant referred to in section 8.2.2a shall be a polyalkylene glycol based synthetic lubricant or equivalent, which shall contain no more than 1000 ppm by weight of moisture.

8.2.3 Following the preconditioning procedure per section 8.2.2, 18.2 kg of standard contaminated HFC–134a are to be processed by the equipment at each stable ambient temperature of 10, 21, and 49 °C.

8.2.4 The HFC–134a is to be cleaned to the purity level, as defined in SAE J2099.

9. Refrigerant Cross Contamination Test

9.1 General.

9.1.1 For test validation, the equipment is to be operated according to the manufacturer's instruction.

9.1.2 The equipment shall clean the contaminated CFC–12 refrigerant to the minimum purity level as defined in Appendix A of this subpart, when tested in accordance with the requirements in section 8.1.

9.1.3 The equipment shall clean the contaminated HFC–134a refrigerant to the purity level defined in Appendix C of this subpart, when tested in accordance with the requirements in section 8.2.

9.2 Test Cycle.

9.2.1 The following method shall be used after the tests and requirements in Sections 8.1 and 8.2, respectively, are completed. Following the manufacturer's instructions, the equipment shall be cleared of HFC–134a, prior to beginning step A. The only refrigerant used for this is noted in steps A, C, and E of this section 9.2.1. The test fixture shown in Figure 1 to Appendix A of this subpart shall be used and the test shall be conducted at 10, 21, and 49 °C ambients.

A. A 1.13 kg standard contaminated sample of CFC–12 (see section 8.1.2a) shall be processed by the equipment.

B. Follow manufacturer's instructions to clear the equipment of CFC–12 before processing HFC–134a.

C. Process a 1.13 kg, standard contaminated sample of HFC–134a (see section 8.2.2a) through the equipment.

D. Follow manufacturer's instructions to clear the equipment of HFC–134a before processing CFC–12.

E. Process a 1.13 kg standard contaminated sample of CFC–12 (see section 8.1.2a) through the equipment.

F. Follow manufacturer's instructions to clear the equipment of CFC–12.

G. The amount of cross contaminated refrigerant, as determined by gas chromatography, in samples processed during steps C and E, shall not exceed 0.5 percent by weight.

10. Sample Analysis

10.1 General.

10.1.1 The processed contaminated samples shall be analyzed according to the following procedure.

10.2 Quantitative Determination of Moisture.

10.2.1 The recycled liquid phase sample of refrigerant shall be analyzed for moisture content via Karl Fischer coulometer titration or an equivalent method. The Karl Fischer apparatus is an instrument for precise determination of small amounts of water dissolved in liquid and/or gas samples.

10.2.2 In conducting the test, a weighed sample of 30 to 130 g is vaporized directly into the Karl Fischer anolyte. A coulometer titration is conducted and the results are calculated and displayed as parts per million moisture (weight).

10.3 Determination of Percent Lubricant.

10.3.1 The amount of lubricant in the recycled sample of refrigerant/lubricant is to be determined by gravimetric analysis.

10.3.2 Following venting of noncondensable, in accordance with the manufacturer's operating instructions, the refrigerant container shall be shaken for 5 minutes prior to extracting samples for test.

10.3.3 A weighed sample of 175 to 225 g of liquid refrigerant/ lubricant is allowed to evaporate at room temperature. The percent lubricant is to be calculated from the weight of the original sample and the residue remaining after the evaporation.

10.4 Noncondensable Gas.

10.4.1 The amount of noncondensable gas is to be determined by gas chromatography. A sample of vaporized refrigerant liquid shall be separated and analyzed by gas chromatography. A Propak Q column at 130°C and a hot wire detector may be used for analysis.

10.4.2 This test shall be conducted on liquid phase samples of recycled refrigerant taken from a full container as defined in section 7.4 within 30 minutes following the proper venting of noncondensable gases.

10.4.3 The samples shall be shaken for at least 15 minutes prior to testing while at a temperature of 24°C ± 2.8°C.

10.5 Refrigerant Cross Contamination.

10.5.1 The amount of cross contamination of CFC–12 in HFC–134a or HFC–134a in CFC–12 shall not exceed 0.5 percent by weight as determined by gas chromatography. A sample of vaporized refrigerant liquid shall be separated and analyzed by gas chromatography. A 1% SP–1000 on Carbopack B (60/80 mesh) column may be used for the analysis.

11. Appendix F is added to Subpart B to read as follows:

Appendix F to Part 82, Subpart B—Standard for Recover-only Equipment That Extracts Class I or Class II Refrigerants Other Than CFC–12

Foreword

These specifications are for extraction only equipment used to service FRIGC$_{TM}$ FR–12 or other class I or class II refrigerants other than CFC–12.

1. Scope

The purpose of this standard is to provide equipment specifications for the recovery of FRGC™ FR–12 or other class I or class II refrigerants other than CFC–12 which are either (1) to be returned to a refrigerant reclamation facility that will process the refrigerant to ARI Standard 700–93 or equivalent new product specifications at a minimum, or (2) to be recycled in other EPA approved recycling equipment (in the event that EPA in the future designates a standard for equipment capable of recycling FRGC™ FR–12 or other class I or class II refrigerant, as appropriate). It is not acceptable that the refrigerant removed from a mobile air conditioning system, with this equipment be directly returned to mobile air conditioning system. This standard applies to equipment used to service automobiles, light trucks, and other vehicles with similar air conditioning systems.

2. References

2.1 Applicable Documents—The following publications form a part of this specification to the extent specified. The latest issue of SAE publications shall apply.

2.1.1 SAE Publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J639–Vehicle Service Coupling.

SAE J2196–Service Hoses for Automotive Air-Conditioning (fittings modified).

2.1.2 ARI Publication—Available from Air Conditioning and Refrigeration Institute, 1501 Wilson Boulevard, Sixth Floor, Arlington, VA 22209.

ARI 700–93—Specifications for Fluorocarbon Refrigerants.

2.1.3 Compressed Gas Association (CGA) Publications—Available from CGA, 1235 Jefferson Davis Highway, Arlington, VA 22202.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

2.1.4 DOT Publications—Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DOT Standard, 49 CFR 173.304—Shippers—General Requirements for Shipments and Packagings.

2.1.5 UL Publications—Available from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062–2096.

UL 1769—Cylinder Valves.

UL 1963—Refrigerant Recovery Recycling Equipment.

3. Specifications and General Description

3.1 The equipment must be able to extract from a mobile air conditioning system FRIGC™ FR–12 or another class I or class II refrigerant other than CFC–12 to which the equipment is dedicated.

3.2 The equipment shall be suitable for use in an automotive service garage environment as defined in section 6.8.

3.3 The equipment discharge or transfer fitting shall be unique to prevent the unintentional use of the extracted refrigerant for recharging auto air conditioners.

3.4 Equipment Certification—The equipment shall be certified by Underwriters Laboratories or and equivalent certifying laboratory to meet this standard.

3.5 Label Requirements—The equipment shall have a label ''Designed Certified by (Company Name) to meet EPA requirements for use only with (the applicable refrigerant). The refrigerant from this equipment must be processed to ARI 700–93 specifications or equivalent new product specifications before reuse in a mobile air-conditioning system.'' The minimum letter size shall be bold type 3 mm in height.

4. Safety Requirements

4.1 The equipment must comply with applicable federal, state, and local requirements on equipment related to the handling of the applicable refrigerant material. Safety precautions or notices or labels related to the safe operation of the equipment shall also be prominently displayed on the equipment and should state ''CAUTION—SHOULD BE OPERATED BY CERTIFIED PERSONNEL''. The safety identification shall be located on the front near the controls.

4.2 The equipment must comply with applicable safety standards for electrical and mechanical requirements.

5. Operating Instructions

5.1 The equipment manufacturer must provide operating instructions that include information equivalent to that required by SAE J1629, necessary maintenance procedures, and source information for replacement parts and repair.

5.1.1 The instruction manual shall include the following information on the lubricant removed: Only new lubricant, as identified by the system manufacturer, should be replaced in the air conditioning system. Removed lubricant from the system and/or the equipment shall be disposed on in accordance with the applicable federal, state, and local procedures and regulations.

5.2 The equipment must prominently display the manufacturer's name, address, the type of refrigerant it is designed to extract, a service telephone number, and any items that require maintenance or replacement that affect the proper operation of the equipment. Operation manuals must cover information for complete maintenance of the equipment to assure proper operation.

6. Functional Description

6.1 The equipment must be capable of ensuring removal of refrigerant from the system being serviced by reducing the system pressure to a minimum of 102 mm (4 in) of mercury below atmospheric pressure (*i.e.*, to a vacuum). To prevent system delayed outgassing, the unit must have a device that assures that the refrigerant has been recovered from the air-conditioning system.

6.1.1 Testing laboratory certification of the equipment capability is required which

shall process contaminated refrigerant samples at specific temperatures.

6.2 The equipment must be preconditioned by processing 13.6 kg (30 lb) of the standard contaminated refrigerant at an ambient of 21 °C (70 °F) before starting the test cycle. Sample amounts are not to exceed 1.13 kg (2.5 lb) with sample amounts to be processed at 5 min intervals. The test method fixture, depicted in Figure 1 to Appendix A of this subpart, shall be operated at 21 °C (70 °F). Contaminated refrigerant samples shall be processed at ambient temperatures of 10 and 49 °C, without equipment shutting due to any safety devices employed in this equipment.

6.2.1 Standard contaminated refrigerant, 13.6 kg (30 lb) sample size, shall consist of liquid refrigerant with 1300 ppm (by weight) moisture at 21 °C and 45,000 ppm (by weight) of oil (mineral oil and POE) and 1000 ppm by weight of noncondensable gases (air).

6.3 Portable refillable containers used in conjunction with this equipment must meet applicable DOT Standards.

6.3.1 The container color must be colored (with the applicable ARI color code for the specific refrigerant) with a yellow top to identify that it contains used refrigerant. It must be permanently marked on the outside surface in black print at least 20 mm high ''DIRTY [NAME OF REFRIGERANT]—DO NOT USE, MUST BE PROCESSED''.

6.3.2 The portable refillable container shall have a unique thread connection for the specific refrigerant.

6.3.3 During operation, the equipment shall provide overfill protection to assure that the storage container liquid fill does not exceed 80% of the tank's rated volume at 21 °C per DOT Standard, 49 CFR 173.304, and the American Society of Mechanical Engineers.

6.4 Additional Storage Tank Requirements.

6.4.1 The cylinder valve shall comply with UL 1769.

6.4.2 The pressure relief device shall comply with CGA Pamphlet S–1.1.

6.4.3 The container assembly shall be marked to indicate the first retest date, which shall be 5 years after date of manufacture. The marking shall indicate that retest must be performed every subsequent 5 years. The marking shall be in letters at least 6 mm high.

6.5 All flexible hoses must meet SAE J2196 for service hoses except that fittings shall be unique to the applicable refrigerant.

6.6 Service hoses must have shutoff devices located within 30 cm of the connection point to the system being serviced to minimize introduction of noncondensable gases into the recovery equipment during connection and the release of the refrigerant during disconnection.

6.7 The equipment must be able to separate the lubricant from the recovered refrigerant and accurately indicate the amount removed from the simulated automotive system during processing in 30 ml units.

6.7.1 The purpose of indicating the amount of lubricant is to ensure that a proper amount of new lubricant is returned to the mobile air conditioning system for compressor lubrication.

6.7.2 Refrigerant dissolved in this lubricant must be accounted for to prevent system lubricant overcharge of the mobile air-conditioning system.

6.8 The equipment must be capable of continuous operation in temperatures of 10 to 49 °C and must comply with sections 6.1 and 6.2.

7. For test validation, the equipment is to be operated according to the manufacturer's instructions.

Application

The purpose of this standard is to provide equipment specifications for the recovery of any class I or class II refrigerant other than CFC–12 for return to a refrigerant reclamation facility that will process it to ARI Standard 700–93 (or for recycling in other EPA approved recycling equipment, in the event that EPA in the future designates a standard for equipment capable of recycling FRIGC™ FR–12 or other class I or class II refrigerant, as appropriate). It is not acceptable that the refrigerant removed from a mobile air-conditioning system with this equipment be directly returned to mobile air-conditioning system.

Reference Section

SAE J639—Vehicle Service Coupling.

SAE J2196—Service Hoses for Automotive Air-Conditioning.

ARI 700–93—Specifications for Fluorocarbon Refrigerants.

CGA Pamphlet S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases.

UL 1769—Cylinder Valves.

49 CFR 173.304—Shippers—General Requirements for Shipment and Packagings.

[FR Doc. 96–4033 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
March 6, 1996

Part III

Department of Housing and Urban Development

24 CFR Part 92

HOME Investment Partnerships Program: Streamlining; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 92

[Docket No. FR–3962–I–01]

RIN 2501–AC06

Office of the Secretary; HOME Investment Partnerships Program: Streamlining Interim Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule streamlines HUD's regulations for the HOME Program by eliminating provisions that are redundant of statutes or are otherwise unnecessary. This rule will make the HOME Program regulations more concise.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, Room 7162, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–2470. (This is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TDD) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for the HOME Investment Partnerships Program can be improved and streamlined by eliminating unnecessary provisions.

Several provisions in the regulations repeat statutory language from the Cranston-Gonzalez National Affordable Housing Act (NAHA). It is unnecessary to maintain statutory requirements in the Code of Federal Regulations (CFR), since those requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

Several other provisions in the regulations apply to more than one program, and therefore HUD repeated these provisions in different subparts. This repetition is unnecessary, and updating these scattered provisions is cumbersome and often creates confusion. Therefore, this rule will consolidate these duplicative provisions, maintaining appropriate cross-references for the reader's convenience.

Some provisions in the regulations are now obsolete. For instance, this rule removes reference to obsolete regulations regarding Cost Effective Energy Standards in subpart F. These guidelines were found in 24 CFR part 39, which has been deleted but will be made available as standards for participating jurisdictions.

Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely removes unnecessary regulatory provisions and does not establish or affect substantive policy. Therefore, prior public comment is unnecessary. This rule is being published as an interim rule and not as a final rule because the HOME program regulation at 24 CFR part 92 has not yet been issued as a final rule.

Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends an existing regulation by consolidating and streamlining provisions. It does not change the environmental review procedures or the physical impact of the program or the projects assisted under the regulations being amended. Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing the HOME Investment Partnerships Program, and regulations removing 24 CFR part 39. Those findings remain applicable to this rule, and are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes that would affect the relationship between the Federal Government and State and local governments will result from this rule.

Executive Order 12606, The Family

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

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 92 of title 24 of the Code of Federal Regulations is amended as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. Section 92.1 is revised to read as follows:

§ 92.1 Overview.

This part implements the HOME Investment Partnerships Act (the HOME Investment Partnerships Program). In general, under the HOME Investment Partnerships Program, HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for very low-income and low-income families. Generally, HOME funds must be matched by nonfederal resources. State and local governments that become participating jurisdictions may use HOME funds to carry out multi-year housing strategies through acquisition, rehabilitation, and new construction of housing, and tenant-based rental assistance. Participating jurisdictions are able to provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies and other forms of investment that HUD approves.

3. In § 92.2, the definition ''*Act*'' is added in alphabetical order, to read as follows:

§ 92.2 Definitions.

Act means the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 *et seq.*

* * * * *

4. Section 92.4 is revised to read as follows:

§ 92.4 Suspension of requirements for disaster areas.

HUD may suspend HOME statutory requirements in connection with disaster areas in accordance with section 290 of the Act.

§ 92.52 [Removed]

5. Section 92.52 is removed.

§ 92.100 [Removed and reserved]

6. Section 92.100 is removed and reserved.

§ 92.212 [Removed and reserved]

7. Section 92.212 is removed and reserved.

8. Section 92.213 is revised to read as follows:

§ 92.213 Development of model programs.

HUD will develop and make available model programs in accordance with section 213 of the Act.

9. In § 92.214, paragraph (a)(2) is revised to read as follows:

§ 92.214 Prohibited activities.

(a) * * *

(2) Provide tenant-based rental assistance for the special purposes of the existing section 8 program in accordance with section 212(d) of the Act.

* * * * *

10. Section 92.215 is revised to read as follows:

§ 92.215 Limitation on jurisdictions under court order.

Limitations on the use of HOME funds in connection with litigation involving discrimination or fair housing are set forth in section 224 of the Act.

§ 92.251 [Amended]

11. Section 92.251 is amended by removing the last sentence in paragraph (a).

12. Section 92.302 is revised to read as follows:

§ 92.302 Housing education and organizational support.

(a) *General.* HUD is authorized to provide education and organizational support assistance in conjunction with HOME funds made available to community housing development organizations in accordance with section 233 of the Act.

(b) *Limitations.* Contracts under this section with any one contractor for a fiscal year may not—

(1) Exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) Provide more than 20 percent of the operating budget (which may not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(c) *Single-state contractors.* Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year must be made available for eligible contractors that have worked primarily in one state. HUD shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the HUD geographic regions.

(d) *Notice of funding.* HUD will publish a notice in the Federal Register announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

§ 92.358 [Removed and reserved]

13. Section 92.358 is removed and reserved.

14. Section 92.400 is revised to read as follows:

§ 92.400 Coordinated Federal support for housing strategies.

(a) *General.* HUD will provide assistance to increase the capacity to identify and meet the needs to increase the supply of affordable housing in accordance with subtitle C of the Act.

(b) *Notice of funding.* HUD will publish a notice in the Federal Register announcing the availability of funding under this section as appropriate.

Dated: February 22, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–5049 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–32–P

federal register

Wednesday
March 6, 1996

Part IV

Department of Housing and Urban Development

24 CFR Part 5, et al.

Regulatory Reinvention: Consolidation of Admission Preferences for Assisted Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 5, 880, 881, 882, 883, 884, 885, 886, 889, 904, 960, 982, and 983

[Docket No. FR–3980–F–01]

RIN 2501–AC10

Regulatory Reinvention—Consolidation of Admission Preferences for Assisted Housing

AGENCY: Office of the Secretary, HUD.
ACTION: Final rule.

SUMMARY: This final rule amends the various program regulations governing assisted housing programs to remove the nearly identical provisions concerning admission preferences found in numerous parts of title 24 of the Code of Federal Regulations and adds several sections on this subject in 24 CFR part 5. The amendments made by this rule do not change the substance of the provisions but eliminate redundant provisions by placing in a general part the provisions that derive from parallel statutory provisions in the United States Housing Act of 1937.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: For the Section 8 project-based programs other than the Moderate Rehabilitation and Project-Based Certificate programs: Barbara Hunter, Director, Program Management Division, Office of Housing, telephone (202) 708–3944 (voice).

For the Section 8 Certificate, Voucher and Moderate Rehabilitation programs and for the public housing program: Linda Campbell, Director of Marketing, Leasing and Management Division, Office of Public and Indian Housing, telephone (202) 708–0744 (voice).

Both of these officials are located at the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410. For hearing- or speech-impaired persons, the above-stated telephone numbers may be accessed via TDD by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

There are no changes to the information collection requirements contained in these provisions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Background

The impetus for this rule is the Secretary's desire to simplify the Department's regulations. In response to the President's initiative to reinvent regulations, the Secretary has determined that the regulations currently found in parts 880, 881, 882, 883, 884, 885, 886, 889, 904, 960, 982, and 983 concerning preferences in admission to assisted housing for persons that are involuntarily displaced, living in substandard housing, or paying more than 50 percent of income for rent, can be consolidated into one set of provisions to apply to these programs without changing the policies implemented by those provisions. This consolidation will eliminate 56 pages from the Department's regulations codified at title 24 of the Code of Federal Regulations.

The continuing resolution enacted on January 26, 1996, approving partial funding for the Department, provides that the statutory provisions on admissions preferences implemented by the regulations being consolidated in this rulemaking are suspended for Fiscal Year 1996. Therefore, this consolidated rule and the regulations that it amends have no effect until October 1, 1996.

II. Action

The nearly identical provisions in parts 880, 881, 882, 883, 884, 885, 889, 960, 982, and 983 shown in the following chart are being removed and consolidated in the corresponding sections of part 5. Cross references to those sections are revised to refer to the Federal preference provisions of 24 CFR part 5:

CORRESPONDING PREFERENCE PROVISIONS
[New provision at head of column]

5.410	5.415	5.420	5.425	5.430
880.613	880.614	880.615	880.616	880.617
881.613	881.614	881.615	881.616	881.617
882.517	882.518	882.519	882.520	882.521
883.714	883.715	883.716	883.717	883.718
884.226	884.227	884.228	884.229	884.230
886.132	886.133	886.134	886.135	886.136
886.337				
889.611	889.612	889.613	889.614	889.615
904.122				
960.211	960.212	960.213	960.214	960.215
982.209	982.210	982.211	982.212	982.213
983.203				

Findings and Certifications

Justification for Final Rule

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if HUD determines that it is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that in this case, prior public comment is unnecessary because the removal of nearly identical program requirements and consolidation of these provisions into a single part does not affect or establish policy. The primary purpose of this rule is to relocate provisions concerning admission preferences, not to revise them.

Impact on the Environment

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 when the admission preference rules (FR–3122 and FR–3727) were promulgated as final rules. Those Findings of No Significant Impact are available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that actions taken in this rule do not have significant impact on States or their political subdivisions, since the rule merely relocates provisions regarding admission preferences for assisted housing.

Impact on the Family

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

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities. The rule is limited to consolidating identical provisions found in various program regulations.

Regulatory Review

This rule was reviewed by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review. Any changes made to the rule as a result of that review are clearly identified in the docket file, which is available for public inspection at the address stated above for review of the environmental finding.

Catalog

The Catalog of Federal Domestic Assistance numbers for the program affected by this rule are 14.157, 14.182, 14.850, and 14.856.

List of Subjects

24 CFR Part 5

Administrative practive and procedure, Grant programs—housing and community development, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

24 CFR Part 885

Aged, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 886

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 889

Aged, Capital advance programs, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 904

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 983

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, parts 5, 880, 881, 882, 883, 884, 885, 886, 889, 904, 960, 982, and 983 of title 24 of the Code of Federal Regulations are amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

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

Authority: 42 U.S.C. 1437a and 3535(d).

2. New §§ 5.410, 5.415, 5.420, 5.425, and 5.430, are added to subpart D of part 5, to read as follows:

Subpart D—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

* * * * *

5.410 Selection preferences.
5.415 Federal preferences: general.
5.420 Federal preference: involuntary displacement.
5.425 Federal preference: substandard housing.
5.430 Federal preference: rent burden.

Subpart D—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

* * * * *

§ 5.410 Selection preferences.

(a) *Applicability.* The selection preferences that are described in this part are applicable to public housing and housing assisted under the Section 8 Housing Assistance Payments program. (Corresponding provisions applicable to the Indian housing program are found in 24 CFR part 950.) These preferences are administered by the entity responsible for admission functions in the programs covered (''responsible entity''), i.e., the public housing agency (''HA'') in the public housing and Section 8 Certificate/Voucher and Moderate Rehabilitation programs and the owner in all other Section 8 programs.

(b) *Types of preference.* There are three types of admission preferences:

(1) ''Federal preferences'' are admission preferences for three categories of families, as prescribed in 42 U.S.C. 1437d(c)(4)(A), 1437f(d)(1)(A), 1437f(o)(3), and 1437f note. Federal preference is given for selection of families that are:

(i) Involuntarily displaced;

(ii) Living in substandard housing (including families that are homeless or living in a shelter for the homeless); or

(iii) Paying more than 50 percent of family income for rent.

(2) ''Ranking preferences'' are preferences that may be established by the responsible entity to use in selecting among applicants that qualify for federal preferences.

(3) ''Local preferences'' are preferences for use in selecting among applicants without regard to their federal preference status. (See 42 U.S.C. 1437d(c)(4)(A), 1437f(d)(1)(A), 1437f(o)(3), and 1437f note.)

(c) *System.* In the Section 8 programs other than the Certificate/Voucher and Moderate Rehabilitation programs, the owner must establish a system for selection of applicants from the waiting list that includes the following:

(1) How the federal preferences will be used;

(2) How any ranking preferences will be used;

(3) How any local preferences will be used; and

(4) How any residency preference will be used.

(d) *Use of preference in selection process.* (1) *Factors other than federal and local preferences.* (i) *Characteristics of the unit.* For developments administered under the Section 8 New Construction and Substantial Rehabilitation programs and the public housing program, the responsible entity may match other characteristics of the applicant family with the type of unit available, e.g., number of bedrooms. In selection of a family for a unit that has special accessibility features, the responsible entity must give preference to families that include persons with disabilities who can benefit from those features of the unit (see 24 CFR 8.27 and 24 CFR 100.202(c)(3)). Also, in selection of a family for a unit in a mixed population project, the responsible entity will give preference to elderly families and disabled families (see subpart D of part 960 or § 880.612a or § 881.612a of this title).

(ii) *Singles preference.* See § 5.405.

(2) *Local preference admissions.* (i) Local preferences may be adopted or amended by an HA to respond to local housing needs and priorities after the HA has conducted a public hearing.

(ii) For Section 8 programs other than the Section 8 Certificate/Voucher, Project-Based Certificate, and Moderate Rehabilitation programs operated under 24 CFR part 982, 983, and 882, respectively, if the owner wants to use preferences to select among applicants without regard to their federal preference status, it must use the local preference system adopted for use in the Section 8 Certificate/Voucher programs by the housing agency for the jurisdiction. If there is more than one HA for the jurisdiction, the owner shall use the local preference system of the HA for the lowest level of government that has jurisdiction where the project is located. For the public housing program, the HA may use a local preference system it adopts for that program.

(iii) In the Section 8 programs other than the Certificate/Voucher, Project-Based Certificate, and Moderate Rehabilitation programs operated under 24 CFR parts 982, 983 and 882, respectively, before an owner implements the HA's local preferences, the owner must receive approval from the HUD Field Office. HUD shall review these preferences to ensure that they are applicable to any tenant eligibility limitations for the subject housing and that they are consistent with HUD requirements pertaining to nondiscrimination and the Affirmative Fair Housing Marketing objectives. If HUD determines that the local preferences are in violation of those requirements, the owner will not be permitted to admit applicants on the basis of any local preferences.

(iv) In any year, the number of families given preference in admission pursuant to a local preference over families with a federal preference may not exceed the local preference limit. ''Local preference limit'' means the following:

(A) For an HA's Section 8 Certificate/Voucher program operated under 24 CFR part 982, ten percent of annual waiting list admissions;

(B) For an HA's public housing program, fifty percent of annual admissions;

(C) For an HA's Section 8 Moderate Rehabilitation program, thirty percent of annual admissions;

(D) For Section 8 New Construction, Substantial Rehabilitation, and Loan Management/Property Disposition projects, thirty percent of annual admissions to each project; and

(E) For the Section 8 Project-Based Certificate program, thirty percent of total annual waiting list admissions to the HA's Project-Based Certificate program (including admissions pursuant to 24 CFR 983.203(c)(3)).

(3) *Prohibition of preference if applicant was evicted for drug-related criminal activity.* With respect to the Section 8 Certificate, Voucher, Loan Management, and Property Disposition programs and the public housing program, the HA may not give a preference (federal preference, local preference, or ranking preference) to an applicant if any member of the family is a person who was evicted during the past three years from housing assisted under a 1937 Housing Act program because of drug-related criminal activity. However, the HA may give an admission preference in any of the following cases:

(i) If the HA determines that the evicted person has successfully completed a rehabilitation program approved by the HA;

(ii) If the HA determines that the evicted person clearly did not participate in or know about the drug-related criminal activity; or

(iii) If the HA determines that the evicted person no longer participates in any drug-related criminal activity.

(4) *Retention of federal preference status.* With respect to determining the preference status of an applicant for the Section 8 Certificate/Voucher programs, an applicant who is receiving tenant-based assistance under the HOME program (24 CFR part 92) and an applicant who resides in public or Indian housing of the same HA (and was on the tenant-based program waiting list when admitted to the HA's public or Indian housing on or after April 26, 1993), the HA determines whether the applicant qualifies for federal preference based on the situation of the applicant at the time the applicant began to receive tenant-based assistance under the HOME program or was admitted to the HA's public or Indian housing program (beginning of initial public or Indian housing lease).

(e) *Income-based admission.* (1) In public housing, the HA may only give preference to select a relatively higher income family for admission if the preference is pursuant to a ''local preference'' admission. (For other income-related restrictions on selection, see 24 CFR 913.105.)

(2) In Section 8 programs, the responsible entity may not select a family for admission in an order different from the order on the waiting list for the purpose of selecting a relatively higher income family for admission.

(f) *Informing applicants about admission preferences.* (1) The responsible entity must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences (federal preference, ranking preference, or local preference).

(2) If the responsible entity determines that the notification to all applicants on a waiting list required by paragraph (f)(1) of this section is impracticable because of the length of the list, the responsible entity may provide this notification to fewer than all applicants on the list at any given time. The responsible entity must, however, have notified a sufficient

number of applicants at any given time that, on the basis of the entity's determination of the number of applicants on the waiting list who already claim a federal preference and the anticipated number of project admissions:

(i) There is an adequate pool of applicants who are likely to qualify for a federal preference; and

(ii) It is unlikely that, on the basis of the responsible entity's framework for applying the preferences under paragraph (c) of this section and the federal preferences claimed by those already on the waiting list, any applicant who has not been so notified would receive assistance before those who have received notification.

(g) *Notice and opportunity for a meeting where preference is denied.* (1) If the responsible entity determines that an applicant does not qualify for a federal preference, ranking preference, or local preference claimed by the applicant, the responsible entity must promptly give the applicant written notice of the determination. The notice must contain a brief statement of the reasons for the determination, and state that the applicant has the right to meet with a representative of the responsible entity to review the determination. The meeting may be conducted by any person or persons designated by the responsible entity, who may be an officer or employee of the responsible entity, including the person who made or reviewed the determination or a subordinate employee.

(2) The applicant may exercise other rights if the applicant believes that the applicant has been discriminated against on the basis of race, color, religion, sex, national origin, age, disability or familial status.

(h) *Residency preferences.* A ''residency preference'' is a preference for admission of families that reside anywhere in a specified ''residency preference area.'' A residency preference may be used as a ranking or local preference.

(1) *Section 8 programs other than Certificate/Voucher and Project-Based Certificate.* In these developments, local residency requirements are prohibited.

(2) *Section 8 Certificate/Voucher and Project-Based Certificate programs.* Any residency preference must be approved by HUD.

(i) A county or municipality may be used as a residency preference area.

(ii) An area smaller than a county or municipality may not be used as a residency preference area.

(3) *All projects.* With respect to any residency preference, applicants who are working or who have been notified that they are hired to work in the residency preference area shall be treated as residents of the residency preference area. A residency preference may not be based on how long the applicant has resided in or worked in the residency preference area.

(i) *Nondiscrimination.* (1) Any selection preferences must be established and administered in accordance with the following authorities:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1;

(ii) The Fair Housing Act (42 U.S.C. 3601–3619) and the implementing regulations at 24 CFR parts 100, 108, 109, and 110;

(iii) Executive Order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 CFR part 107;

(iv) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8;

(v) The Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part 146; and

(vi) The Americans with Disabilities Act (42 U.S.C. 12101–12213) to the extent applicable.

(2) Such preferences also must be consistent with HUD's affirmative fair housing objectives and (where applicable) the owner's HUD-approved affirmative fair housing marketing plan.

(Approved by the Office of Management and Budget under OMB control numbers 2577–0105 and 2502–0372.)

§ 5.415 Federal preferences: general.

(a) *Definitions.* The definitions of these preference categories stated in §§ 5.420, 5.425, and 5.430 must be used by the responsible entity, except that an HA may use its own alternative definitions if they have been approved by HUD.

(b) *Ranking preferences: selection among federal preference holders.* The responsible entity's system of administering the federal preferences (its admission policy, in the case of the Section 8 Certificate/Voucher programs) may provide for use of ranking preference for selecting among applicants who qualify for federal preference.

(1) The responsible entity may give preference to working families—so long as the prohibition of § 5.410 against selection based on income and the nondiscrimination provisions that protect against discrimination on the basis of age or disability are not violated. (If a responsible entity adopts such a preference, it may not give greater weight to an applicant based on the amount of employment income, and an applicant household shall be given the benefit of the preference if the head and spouse, or sole member, are age 62 or older or are receiving social security disability, supplemental security income disability benefits, or any other payments based on an individual's inability to work.) A responsible entity may give preference to graduates of, as well as active participants in, educational and training programs that are designed to prepare individuals for the job market. The responsible entity also may use the housing agency's ''local preferences'' for the Section 8 Certificate and Voucher programs to rank federal preference holders.

(2) The ranking preferences may give different weight to the federal preferences, through such means as:

(i) Aggregating the federal preferences (e.g., provide that two federal preferences outweigh one);

(ii) Giving greater weight to holders of a particular category of federal preference; or

(iii) Giving greater weight to a federal preference holder who fits a particular category of federal preference.

(c) *Qualifying for a federal preference.* (1) *Certification of preference.* An applicant may claim qualification for a federal preference by certifying to the responsible entity that the family qualifies for federal preference. The responsible entity must accept this certification, unless the responsible entity verifies that the applicant is not qualified for federal preference.

(2) *Verification of preference.* (i) Before admitting an applicant on the basis of a federal preference, the responsible entity must require the applicant to provide information needed by the responsible entity to verify that the applicant qualifies for a federal preference because of the applicant's current status. The applicant's current status must be determined without regard to whether there has been a change in the applicant's qualification for a federal preference between the time of application and selection for admission, including a change from one federal preference category to another.

(ii) In the case of Section 8 programs other than the Section 8 Certificate/Voucher, Project-Based Certificate, and Moderate Rehabilitation programs, the owner must use the verification procedures specified in § 5.420(c) (involuntary displacement); § 5.425(c) (substandard housing); and § 5.430(b) (rent burden). In the case of the Section 8 Certificate/Voucher, Project-Based

Certificate, and Moderate Rehabilitation programs and the public housing program, the HA may adopt its own verification procedure.

(iii) Once the responsible entity has verified an applicant's qualification for a federal preference, the responsible entity need not require the applicant to provide information needed by the responsible entity to verify such qualification again unless:

(A) The responsible entity determines reverification is desirable because a long time has passed since verification; or

(B) The responsible entity has reasonable grounds to believe that the applicant no longer qualifies for a federal preference.

(3) *Effect of current residence in assisted housing.* No applicant is to be denied a federal preference for which the family otherwise qualifies on the basis that the applicant already resides in assisted housing; for example, the actual condition of the housing unit must be considered, or the possibility of involuntary displacement resulting from domestic violence must be evaluated.

(d) *Approval of special conditions satisfying preference definitions.* With respect to Section 8 programs other than the Section 8 Certificate/Voucher, Project-Based Certificate and Moderate Rehabilitation programs, HUD may specify additional conditions under which the federal preferences, as described in §§ 5.420, 5.425, and 5.430, can be satisfied. In such cases, appropriate certification of qualification must be provided. (See HUD Handbook 4350.3, which is available at HUD field offices.) (Approved by the Office of Management and Budget under OMB control number 2502–0372 and 2577–0105.)

§ 5.420 Federal preference: involuntary displacement.

(a) *How applicant qualifies for displacement preference.* (See § 5.415(a)(2) and (c)(2)(ii) for applicability of this section to the Section 8 Certificate/Voucher, Project-Based Certificate, and Moderate Rehabilitation programs and the public housing program.)

(1) An applicant qualifies for a federal preference on the basis of involuntary displacement if either of the following apply:

(i) The applicant has been involuntarily displaced and is not living in standard, permanent replacement housing; or

(ii) The applicant will be involuntarily displaced within no more than six months from the date of preference status certification by the family or verification by the responsible entity.

(2)(i) ''Standard, permanent replacement housing'' is housing:

(A) That is decent, safe, and sanitary;

(B) That is adequate for the family size; and

(C) That the family is occupying pursuant to a lease or occupancy agreement.

(ii) ''Standard, permanent replacement housing'' does not include:

(A) Transient facilities, such as motels, hotels, or temporary shelters for victims of domestic violence or homeless families; or

(B) In the case of domestic violence, the housing unit in which the applicant and the applicant's spouse or other member of the household who engages in such violence live.

(b) *Meaning of involuntary displacement.* An applicant is or will be involuntarily displaced if the applicant has vacated or will have to vacate the unit where the applicant lives because of one or more of the following:

(1) *Displacement by disaster.* An applicant's unit is uninhabitable because of a disaster, such as a fire or flood.

(2) *Displacement by government action.* Activity carried on by an agency of the United States or by any State or local governmental body or agency in connection with code enforcement or a public improvement or development program.

(3) *Displacement by action of housing owner.* (i) Action by a housing owner forces the applicant to vacate its unit.

(ii) An applicant does not qualify as involuntarily displaced because action by a housing owner forces the applicant to vacate its unit unless:

(A) The applicant cannot control or prevent the owner's action;

(B) The owner action occurs although the applicant met all previously imposed conditions of occupancy; and

(C) The action taken by the owner is other than a rent increase.

(iii) To qualify as involuntarily displaced because action by a housing owner forces the applicant to vacate its unit, reasons for an applicant's having to vacate a housing unit include, but are not limited to, conversion of an applicant's housing unit to non-rental or non-residential use; closing of an applicant's housing unit for rehabilitation or for any other reason; notice to an applicant that the applicant must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy; sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred; or any other legally authorized act that results or will result in the withdrawal by the owner of the unit or structure from the rental market.

(iv) Such reasons do not include the vacating of a unit by a tenant as a result of actions taken by the owner because the tenant refuses:

(A) To comply with HUD program policies and procedures for the occupancy of under-occupied or overcrowded units; or

(B) To accept a transfer to another housing unit in accordance with a court decree or in accordance with policies and procedures under a HUD-approved desegregation plan.

(4) *Displacement by domestic violence.* (i) An applicant is involuntarily displaced if:

(A) The applicant has vacated a housing unit because of domestic violence; or

(B) The applicant lives in a housing unit with a person who engages in domestic violence.

(ii) ''Domestic violence'' means actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the applicant's household.

(iii) To qualify as involuntarily displaced because of domestic violence:

(A) The responsible entity must determine, in accordance with HUD's administrative instructions, that the domestic violence occurred recently or is of a continuing nature; and

(B) The applicant must certify that the person who engaged in such violence will not reside with the applicant family unless the responsible entity has given advance written approval. If the family is admitted, the responsible entity may deny or terminate assistance to the family for breach of this certification.

(5) *Displacement to avoid reprisals.* (i) An applicant family is involuntarily displaced if:

(A) Family members provided information on criminal activities to a law enforcement agency; and

(B) Based on a threat assessment, a law enforcement agency recommends rehousing the family to avoid or minimize a risk of violence against family members as a reprisal for providing such information.

(ii) The responsible entity may establish appropriate safeguards to conceal the identity of families requiring protection against such reprisals.

(6) *Displacement by hate crimes.* (i) An applicant is involuntarily displaced if:

(A) One or more members of the applicant's family have been the victim of one or more hate crimes; and

(B) The applicant has vacated a housing unit because of such crime, or the fear associated with such crime has destroyed the applicant's peaceful enjoyment of the unit.

(ii) ''Hate crime'' means actual or threatened physical violence or intimidation that is directed against a person or his or her property and that is based on the person's race, color, religion, sex, national origin, handicap, or familial status.

(iii) The responsible entity must determine, in accordance with HUD's administrative instructions, that the hate crime involved occurred recently or is of a continuing nature.

(7) *Displacement by inaccessibility of unit.* An applicant is involuntarily displaced if:

(i) A member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit; and

(ii) The owner is not legally obligated to make the changes to the unit that would make critical elements accessible to the disabled person as a reasonable accommodation.

(8) *Displacement because of HUD disposition of multifamily project.* Involuntary displacement includes displacement because of disposition of a multifamily rental housing project by HUD under section 203 of the Housing and Community Development Amendments of 1978.

(c) *Involuntary displacement preference: Verification.* A private owner's verification of an applicant's involuntary displacement is established by the following documentation:

(1) *Displacement by disaster.* Certification, in a form prescribed by the Secretary, from a unit or agency of government that an applicant has been or will be displaced as a result of a disaster that results in the uninhabitability of an applicant's unit.

(2) *Displacement by government action.* Certification, in a form prescribed by the Secretary, from a unit or agency of government that an applicant has been or will be displaced by activity carried on by an agency of the United States or by any State or local governmental body or agency in connection with code enforcement or a public improvement or development program.

(3) *Displacement by owner action.* Certification, in a form prescribed by the Secretary, from an owner or owner's agent that an applicant had to or will have to vacate a unit by a date certain because of owner action.

(4) *Displacement because of domestic violence.* Certification, in a form prescribed by the Secretary, of displacement because of domestic violence from the local police department, social services agency, or court of competent jurisdiction, or a clergyman, physician, or public or private facility that provides shelter or counseling to the victims of domestic violence.

(5) *Displacement to avoid reprisals.* A threat assessment by a law enforcement agency.

(6) *Displacement by hate crime.* Certification by a law enforcement agency or other reliable information.

(7) *Displacement by inaccessibility of unit.* Certification by a health care professional that a family member has a mobility or other impairment that makes critical elements of the current unit inaccessible, and statement by the owner that it is unable to make necessary changes to the unit to make it accessible.

(8) *Displacement by HUD disposition of multifamily project.* Certification by HUD with respect to the disposition.

§ 5.425 Federal preference: substandard housing.

(a) *When unit is substandard.* (See § 5.415(a)(2) and (c)(2)(ii) for applicability of this section to the Section 8 Certificate/Voucher, Project-Based Certificate, Moderate Rehabilitation programs and the public housing program.) A unit is substandard if it:

(1) Is dilapidated;

(2) Does not have operable indoor plumbing;

(3) Does not have a usable flush toilet inside the unit for the exclusive use of a family;

(4) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;

(5) Does not have electricity, or has inadequate or unsafe electrical service;

(6) Does not have a safe or adequate source of heat;

(7) Should, but does not, have a kitchen; or

(8) Has been declared unfit for habitation by an agency or unit of government.

(b) *Other definitions.* (1) *Dilapidated unit.* A housing unit is dilapidated if:

(i) The unit does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family; or

(ii) The unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or lack of repair or from serious damage to the structure.

(2) *Homeless family.* (i) An applicant that is a ''homeless family'' is considered to be living in substandard housing.

(ii) A ''homeless family'' includes:

(A) Any person or family that lacks a fixed, regular, and adequate nighttime residence; and

(B) Any person or family that has a primary nighttime residence that is:

(*1*) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

(*2*) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(*3*) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(iii) A ''homeless family'' does not include any person imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

(3) *Status of SRO housing.* In determining whether an individual living in single room occupancy (SRO) housing qualifies for federal preference, SRO housing is not considered substandard solely because it does not contain sanitary or food preparation facilities.

(c) *Substandard housing preference: verification.* The following provisions are applicable to private owners:

(1) Verification that an applicant is living in substandard housing consists of certification, in a form prescribed by the Secretary, from a unit or agency of government or from an applicant's present landlord that the applicant's unit is ''substandard housing'' (as described in this section).

(2) In the case of a ''homeless family'' (as described in this section), verification consists of certification, in a form prescribed by the Secretary, of this status from a public or private facility that provides shelter for such individuals, or from the local police department or social services agency.

§ 5.430 Federal preference: rent burden.

(a) *Rent burden preference: how determined. (See § 5.415(a)(2) and (c)(2)(ii) for applicability of this section to the Section 8 Certificate/Voucher, Project-Based Certificate, and Moderate Rehabilitation programs and the public housing program.)*

(1) ''Rent burden preference'' means the federal preference for admission of applicants that pay more than 50 percent of family income for rent.

(2) For purposes of determining whether an applicant qualifies for the rent burden preference:

(i) ''Family income'' means Monthly Income, as defined in 24 CFR 813.102.

(ii) ''Rent'' means:

(A) The actual monthly amount due under a lease or occupancy agreement between a family and the family's current landlord; and

(B) For utilities purchased directly by tenants from utility providers:

(*1*) The utility allowance for family-purchased utilities and services that is used in the HA tenant-based program; or

(*2*) If the family chooses, the average monthly payments that the family actually made for these utilities and services for the most recent 12-month period or, if information is not obtainable for the entire period, for an appropriate recent period.

(iii) Amounts paid to or on behalf of a family under any energy assistance program must be subtracted from the otherwise applicable rental amount, to the extent that they are not included in the family's income.

(iv) For purposes of the Section 8 Certificate/Voucher programs, rent for an applicant who owns a manufactured home, but rents the space upon which it is located, includes the monthly payment to amortize the purchase price of the home, calculated in accordance with HUD's requirements. In addition, for this program, rent for members of a cooperative means the charges under the occupancy agreement between the members and the cooperative.

(3) An applicant does not qualify for a rent burden preference if either of the following is applicable:

(i) The applicant has been paying more than 50 percent of income for rent for less than 90 days.

(ii) The applicant is paying more than 50 percent of family income to rent a unit because the applicant's housing assistance for occupancy of the unit under any of the following programs has been terminated because of the applicant's refusal to comply with applicable program policies and procedures on the occupancy of underoccupied and overcrowded units:

(A) The Section 8 programs or public and Indian housing programs under the United States Housing Act of 1937;

(B) The rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(C) Rental assistance payments under section 236(f)(2) of the National Housing Act.

(b) *Rent burden preference: verification of income and rent.* The owner must verify that an applicant is paying more than 50 percent of family income for rent, as follows:

(1) *How to verify income.* The owner must verify a family's income by using the standards and procedures that it uses to verify family income under 24 CFR part 813.

(2) *How to verify rent.* The owner must verify the amount due to the family's landlord (or cooperative) under the lease or occupancy agreement:

(i) By requiring the family to furnish copies of its most recent rental (or cooperative charges) receipts (which may include canceled checks or money order receipts) or a copy of the family's current lease or occupancy agreement; or

(ii) By contacting the landlord (or cooperative) or its agent directly.

(3) *Utilities.* To verify the actual amount that a family paid for utilities and other housing services, the owner must require the family to provide copies of the appropriate bills or receipts, or must obtain the information directly from the utility or service supplier.

PART 880–SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

3. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Subpart F—Management

§ 880.603 [Amended]

4. Section 880.603 is amended by:

a. Amending the introductory text of paragraph (b) by removing the phrase ''§§ 880.613 through 880.617.'' from the end of the paragraph, and adding in its place the phrase ''24 CFR part 5.'';

b. Amending paragraph (b)(1) introductory text by removing the term ''§ 880.613(c)(2)'' from the third sentence, and adding in its place the phrase ''24 CFR part 5''; and

c. Amending paragraph (b)(2) by removing the term ''§ 880.613(k)'' from the fifth sentence, and adding in its place ''24 CFR 5.410''.

§ 880.612a [Amended]

5. In § 880.612a, paragraph (g) is amended by removing the term ''§ 880.613'' in the two places where it appears, and by adding the term ''24 CFR part 5'' in those two places.

§§ 880.613, 880.614, 880.615, 880.616, and 880.617 [Removed]

6. Sections 880.613, 880.614, 880.615, 880.616, and 880.617 are removed.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

7. The authority citation for part 881 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Subpart F—Management

§ 881.603 [Amended]

8. Section 881.603 is amended by:

a. Amending the introductory text of paragraph (b) by removing the phrase ''§§ 881.613 through 881.617'' from the end of the paragraph, and adding in its place the phrase ''24 CFR part 5'';

b. Amending paragraph (b)(2) introductory text by removing the term ''§ 881.613(c)(2)'' from the third sentence, and adding in its place the phrase ''24 CFR part 5''; and

c. Amending paragraph (b)(3) by removing the term ''§ 881.613(k)'' from the fifth sentence, and adding in its place the term ''§ 24 CFR 5.410''.

§ 881.612a [Amended]

9. In § 881.612a, paragraph (g) is amended by removing the term ''§ 881.613'' in the two places where it appears, and by adding the term ''24 CFR part 5'' in those two places.

§§ 881.613, 881.614, 881.615, 881.616, and 881.617 [Removed]

10. Sections 881.613, 881.614, 881.615, 881.616, and 881.617 are removed.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

11. The authority citation for part 882 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

Subpart E—Special Procedures for Moderate Rehabilitation—Program Development and Operation

§ 882.514 [Amended]

12. Section 882.514 is amended by:

a. Amending paragraph (a)(1) by adding, before the term ''750'' in the parenthetical phrase, the term ''5, '', and by removing the last sentence, and

b. Amending the introductory text of paragraph (b) by removing the term ''§ 882.517(c)(2)'' from the fourth sentence, and adding in its place the phrase ''24 CFR part 5''.

§§ 882.517, 882.518, 882.519, 882.520, and 882.521 [Removed]

13. Sections 882.517, 882.518, 882.519, 882.520, and 882.521 are removed.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

14. The authority citation for part 883 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart G—Management of New Construction and Substantial Rehabilitation Projects

§ 883.704 [Amended]

15. Section 883.704 is amended by:

a. Amending the introductory text of paragraph (b) by removing the phrase ''parts 750 and 760 of chapter VII'', and adding in its place the phrase ''24 CFR parts 5, 750, and 760'', and by removing the phrase '', including giving a Federal preference in accordance with § 883.714'' from the end of the paragraph;

b. Amending paragraph (b)(2) by removing the term ''§ 883.714(c)(2)'' from the third sentence, and adding in its place the phrase ''24 CFR part 5''; and

c. Amending paragraph (b)(3) by removing the term ''883.714(k)'' from the third sentence, and adding in its place ''24 CFR 5.410''.

§ 883.704a [Amended]

15a. In § 883.704a, paragraph (g) is amended by removing the term ''§ 883.714'' in the two places it appears, and adding in its places the term ''24 CFR part 5''.

§§ 883.714, 883.715, 883.716, 883.717, and 883.718 [Removed]

16. Sections 883.714, 883.715, 883.716, 883.717, and 883.718 are removed.

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

17. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

17a. The table of contents for part 884 is amended to add the reference to ''*§ 884.223a Preference for occupancy by elderly families.*''

Subpart B—Project Development and Operation

§ 884.214 [Amended]

18. Section 884.214 is amended as follows:

a. Paragraph (b)(1) is amended by removing the term ''§ 884.226'' from the parenthetical phrase, and adding in its place the phrase ''24 CFR part 5'';

b. Paragraph (b)(2) is amended by removing the term ''§ 884.226(c)(2)'' from the second sentence, and adding in its place the phrase ''24 CFR part 5''; and

c. Paragraph (b)(7) is revised, to read as follows:

§ 884.214 Marketing.

* * * * *

(b) * * *

(7) See 24 CFR part 5 for the informal review provisions for the denial of a Federal selection preference.

* * * * *

§ 884.223a [Amended]

19. In § 884.223a, paragraph (g) is amended by removing the term ''§ 884.226'' in the two places where it appears, and by adding in those places the phrase ''24 CFR part 5''.

§§ 884.226, 884.227, 884.228, 884.229, and 884.230 [Removed]

20. Sections 884.226, 884.227, 884.228, 884.229, and 884.230 are removed.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

21. The authority citation for part 885 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f and 3535(d).

Subpart B—Section 202 Projects for the Elderly or Handicapped—Section 8 Assistance

§ 885.427 [Amended]

22. Section 885.427 is amended by removing the term ''§§ 880.613–880.617 of this chapter'' and adding in its place the phrase ''24 CFR part 5, subpart D''.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

23. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart A—Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages

§ 886.119 [Amended]

24. In § 886.119, paragraph (a)(3) is amended by removing the term ''§ 886.132'' and adding in its place the phrase ''24 CFR part 5''.

25. Section 886.132 is revised to read as follows:

§ 886.132 Selection preferences.

Sections 5.410 through 5.430 of this title govern the use of preferences in the selection of tenants under this subpart A.

§§ 886.133, 886.134, 886.135, and 886.136 [Removed]

26. Sections 886.133, 886.134, 886.135, and 886.136 are removed.

Subpart C—Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects

§ 886.337 [Amended]

27. Section 886.337 is amended by removing the phrase ''Sections 886.132 through 886.136'' and by adding the phrase ''Sections 5.410 through 5.430''.

PART 889—SUPPORTIVE HOUSING FOR THE ELDERLY

28. The authority citation for part 889 is revised to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 3535(d).

Subpart F—Project Management

29. In § 889.610, paragraph (a) is revised to read as follows:

§ 889.610 Selection and admission of tenants.

(a) *Written procedures.* The owner shall adopt written tenant selection procedures that ensure nondiscrimination in the selection of tenants and that are consistent with the purpose of improving housing opportunities for very low-income elderly persons; that are reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease; and that conform to the requirements on preferences contained in 24 CFR part 5. Owners shall promptly inform in writing any rejected applicant of the grounds for any rejection. Additionally, owners shall maintain a written, chronological waiting list showing the name, race, gender, ethnicity and date of each person applying for the program.

* * * * *

§§ 889.611, 889.612, 889.613, 889.614, and 889.615 [Removed]

30. Sections 889.611, 889.612, 889.613, 889.614, and 889.615 are removed.

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

31. The authority citation for part 904 continues to read as follows:

Authority: 42 U.S.C. 1437–1437ee and 3535(d).

Subpart B—Turnkey III Program Description

§ 904.122 [Amended]

32. Section 904.122 is amended by removing the phrase ''§§ 960.211 through 960.215'' and adding in its place the phrase ''24 CFR 5.410 through 5.430''.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

33. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, and 3535(d).

Subpart B—Admission, Rent and Reexamination

§ 960.203 [Removed and reserved]

34. Section 960.203 is removed and reserved.

§ 960.204 [Amended]

35. In § 960.204, paragraph (a) is amended by adding after the word ''chapter'', the phrase ''and 24 CFR part 5''; and by removing paragraph (d).

§ 960.205 [Amended]

36. In § 960.205, paragraph (c) is amended by removing the two parenthetical phrases that read ''(see § 960.211)'' and ''(But see § 960.211(d)''.

§ 960.206 [Amended]

37. In § 960.206, paragraph (a) is amended by removing the reference to ''§ 960.211'' and by adding in its place the phrase ''24 CFR part 5''.

§ 960.207 [Amended]

38. In § 960.207, paragraph (a) is amended by removing the phrase ''(see § 960.211)''.

§§ 960.211, 960.212, 960.213, 960,214, and 960.215 [Removed]

39. Sections 960.211, 960.212, 960.213, 960,214, and 960.215 are removed.

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

40. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

Subpart A—General Information

§ 982.3 [Amended]

41. Section 982.3 is amended by removing the definitions of ''*Federal preference*,'' *Federal preference holder*,'' ''*Local preference*,'' ''*Local preference limit*,'' ''*Ranking preference*,'' ''*Residency preference*,'' and ''*Residency preference area*.''

Subpart E—Admission to Tenant-Based Program

§ 982.202 [Amended]

42. Section 982.202 is amended by:

a. Redesignating paragraph (b)(4)(i) as paragraph (b)(4);

b. Redesignating paragraphs (b)(4)(i)(A), (b)(4)(i)(B), (b)(4)(i)(C), (b)(4)(i)(D), and (b)(4)(i)(E), as paragraphs (b)(4)(i), (b)(4)(ii), (b)(4)(iii), (b)(4)(iv), and (b)(4)(v), respectively; and

c. Removing paragraph (b)(4)(ii).

43. Section 982.207 is revised to read as follows:

§ 982.207 Waiting list: Use of preferences.

(a) The HA must use the following to select among applicants on the waiting list with the same preference status:

(1) Date and time of application; or

(2) A drawing or other random choice technique.

(b)(1) The method for selecting applicants from preference categories must be consistent with requirements governing federal preference and the singles preference, as described in 24 CFR part 5.

(2) In its system for applying the preferences described in 24 CFR part 5, the following provisions apply:

(i) The HA may limit the number of applicants that may qualify for any ranking preference or local preference.

(ii) The local preference limit only applies to admission of an applicant from the HA waiting list. A special admission is not counted against the local preference limit.

(iii) The local preference limit does not apply when an applicant is received in an HA program under portability procedures. The admission of a portability family by a receiving HA does not count against the receiving HA local preference limit. The admission of such a family (not qualified for federal preference) counts against the local preference limit of the initial HA.

(c) The method for selecting applicants from preference categories must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

§§ 982.208, 982.209, 982.210, 982.211, 982.212, and 982.213 [Removed]

44. Sections 982.208, 982.209, 982.210, 982.211, 982.212, and 982.213 are removed.

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

45. The authority citation for part 983 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

Subpart E—Management

§ 983.203 [Amended]

46. Section 983.203 is amended as follows:

a. Paragraph (a)(1) is amended by removing the phrase, ''except (b)(1), and 982.208 through 982.213 of this chapter'', and adding in its place the phrase, ''and 24 CFR 5.410 through 5.430''; and

b. Paragraph (a)(5) is removed, and paragraphs (a)(6) and (a)(7) are redesignated as paragraphs (a)(5) and (a)(6), respectively.

Dated: February 22, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–5024 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–32–P

federal register

Wednesday
March 6, 1996

Part V

Department of Education

National Resource Center and Foreign Language and Area Studies Fellowship Programs: Technical Assistance Workshop; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.015]

National Resource Center and Foreign Language and Area Studies Fellowship Programs; Notice of Technical Assistance Workshop

SUMMARY: The U.S. Department of Education will sponsor a two-day technical assistance workshop for colleges and universities interested in learning more about the application process for the National Resource Center (NRC) and Foreign Language and Area Studies Fellowship (FLAS) Programs. This workshop will be conducted by staff of the Center for International Education, Office of Postsecondary Education, U.S. Department of Education. The workshop will cover the guidelines concerning applications for the expected fall 1996 (FY 1997) competition, proposed regulatory changes, and data collection techniques for funded centers. The workshop will also offer suggestions for preparing applications.

Dates: April 1–2, 1996.

Time: 8:30 a.m.–5:30 p.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C., Telephone: (202) 234–0700.

Note: There will be no registration fees. Participants should notify Uri Monson of their intentions to attend by no later than March 15, 1996, by fax: (202) 205–9489 or e-mail: (uri__monson@ed.gov). Registration will take place on March 31, 1996 from 5:00 p.m.–7:00 p.m. at the Omni Shoreham Hotel.

FOR FURTHER INFORMATION CONTACT: Uri Monson at (202) 401–9779, or (uri__monson@ed.gov). 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.

Dated: February 15, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–5142 Filed 3–5–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
March 6, 1996

Part VI

Department of Housing and Urban Development

24 CFR Part 955

Loan Guarantees for Indian Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 955

[Docket No. FR–3614–F–04]

RIN 2577–AB40

Office of the Assistant Secretary for Public and Indian Housing; Loan Guarantees for Indian Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule sets forth regulations to implement the Indian Loan Guarantee Program authorized by section 184 of the Housing and Community Development Act of 1992. The purpose of the program is to provide loan guarantees that will make private financing available to Native Americans on restricted lands where no source of financing is currently available.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Dominic Nessi, Deputy Assistant Secretary for Native American Programs, Room B–133, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 755–0032 (voice) or (202) 708–0850 (TDD for speech or hearing impaired individuals). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in § 955.101 of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0200. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

II. Background

Section 184 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992) authorized the establishment of the Indian Housing Loan Guarantee Fund (the Fund) to provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land. In general, these lands, held in trust by the United States for the benefit of an Indian or Indian tribe, are inalienable. Trust lands under this program also include lands to which the title is held by an Indian tribe subject to a restriction against alienation imposed by the United States. Because titles to individual plots do not convey, and liens do not attach, conventional mortgage lending practices do not operate in this forum.

The Fund addresses these obstacles to mortgage financing by guaranteeing loans made to Indian families or Indian housing authorities to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area. Loans may be made by any lender approved by the Secretary of Housing and Urban Development, the Secretary of Agriculture, or the Secretary of Veterans' Affairs; or, any lender which is supervised, approved, regulated or insured by any agency of the Federal Government.

The Department implemented the section 184 Loan Guarantees for Indian Housing program at 24 CFR part 955 by an interim rule published on August 18, 1994 (59 FR 42732). Six public comments, which are discussed in section IV. of this preamble, below, were received in response to the interim rule.

III. Changes Made in the Final Rule

In keeping with the President's mandate to reinvent and reform regulations, part 955 is substantially streamlined in this rule. One of the methods by which the Department is streamlining and reducing its regulations is to remove rule text that only repeats statutory language. Rules will only contain legally binding requirements that are in addition to those contained in a statute. Besides reducing the sheer bulk of rules, this practice will remove the problems that result when a rule that echoes the language of a statute becomes inconsistent with new statutory amendments. The period before such a rule is amended to conform to new statutory language is often one of confusion and uncertainty as to which law applies: the old provisions in the regulations or the new provisions in the statute. The new part 955 promulgated here does not, therefore, repeat any statutory language, but only implements requirements that are in addition to those in Section 184.

The combined statutory and regulatory requirements that apply with respect to Section 184 loan guarantees have been placed in an appendix to this final rule. The final rule will be codified in the Code of Federal Regulations; the appendix will not be codified. However, the appendix is available to the public as a single document which provides a unified overview of the general requirements under Section 184.

This final rule also adds a definition of Section 184, referring to the loan guarantee program, that makes citing the program in the rule more convenient.

IV. Comments on the Interim Rule

HUD solicited public comments on the interim rule. During the comment period HUD received 6 comments from IHAs, Tribal leaders, and financial institutions. This final rule summarizes below the comments according to their relevant subparts and provides HUD's responses to those comments.

Section 955.101 Applicability

Three commentors objected to the interim rule's definition of eligible areas as ''restricted Indian lands.'' These commentors stated that eligible areas should be defined as all lands in Indian country, regardless of title status (including fee lands).

HUD response: Section 184 can be used only with respect to properties which are located on trust/restricted lands or which are located within an Indian area. Some tribes are currently expanding their service area by purchasing fee simple land and placing that land into trust status. These areas are eligible for section 184 assistance because they are restricted lands within an Indian area.

Section 955.103 Definitions

One commentor noted that the Interim Rule refers to ''Native Americans'' while the statute refers to ''Indian families'' and ''Indian Housing Authorities.'' The commentor recommended that references to ''Native Americans'' be removed from the rule.

HUD response: The definition of *Indian* used in the rule means any person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State, and includes the term ''Native American'', which has been added to the regulatory language at the discretion of the Department.

One commentor requested clarification regarding whether Native Hawaiians are eligible borrowers under the section 184 program.

HUD response: The statutory purpose of the section 184 program is given at HCDA 1992 section 184(a) as: ''To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing

because of the unique legal status of Indian trust land * * *''. Native Hawaiians, who are not included within the definition of the term ''Indian,'' do not qualify under this statutory purpose.

Section 955.105 Eligible Loans

Two commentors noted that the restriction on eligible loans should be expanded to include adjustable rate mortgages and balloon payment mortgages.

HUD response: The Department has determined that the section 184 program will be operating in a totally new lending environment and the uncertainty of a balloon payment mortgage or an adjustable rate mortgage of any type would create an unnecessary risk to the borrower, the lender and the Department. This rule clarifies, at § 955.105, that only fixed rate, fixed term loans with even monthly payments are eligible.

Two commentors noted that acquisition and rehabilitation is an eligible activity and requested clarification whether a single guaranteed loan can be made to cover both of these activities for one structure.

HUD response: Yes, a single guaranteed loan can be made to cover both acquisition and rehabilitation for one structure. A section 184 guaranteed loan may be used to ''pay off'' a Mutual Help home so that the property may be conveyed to the homeowner. A guaranteed loan could be used to pay off *and* rehabilitate a Mutual Help home.

Section 955.107 Eligible Housing

One commenter stated that fee lands within Indian country should be eligible sites. HUD will allow fee simple lands in limited circumstances. Fee simple lands *within a designated Indian area* are eligible sites under section 184.

One commentor recommended that the term ''modest in size and design'' be defined in specific terms.

HUD response: In order to determine ''modest'' the section 184 program loan may not exceed 150% of the FHA mortgage limits, as adjusted for the area. These mortgage limits are published by the Federal Housing Administration (FHA) by area of the country on a periodic basis. Thus, the mortgage limit in Anchorage may differ greatly from the mortgage limit in Oklahoma City.

One commentor criticized the lack of specificity in the construction standards at § 955.107(2). The commentor recommended that structures be required to conform to the Uniform Building Code (UBC) and other locally adopted Tribal building ordinances.

HUD response: The section 184 statute provides requirements relating to size; heating, plumbing, and electrical requirements; and energy efficiency. However, the Department emphasizes that the standards represent a *minimum level of requirements.* The tribe, individual owner, or IHA may design and construct a property that meets a higher standard.

Section 955.109 Eligible Lenders

In addressing this section, one commentor stated that the rule should cross reference prohibitions against housing discrimination. The same commentor then stated that lenders should not be able to withhold loans where the fund is fully obligated.

HUD response: The commentor appears to be asking HUD to prohibit lenders from refusing to make loans to eligible borrowers as long as there is section 184 guarantee authority available. Notwithstanding any housing discrimination laws, HUD does not have the authority to compel lenders to participate in this program.

Section 955.111 Eligible Collateral

One commentor suggested that the term ''leasehold'' be deleted from section § 955.111(b)(3).

HUD response: HUD agrees, and has removed the term ''leasehold'' from section § 955.111(b)(3) of the final rule.

One commentor stated that there is no time period specified for when the Notice of Default (NOD) is filed or for when it ends, or when the 60 day period starts for the eviction action. Another commentor stated that tribal eviction procedures under § 955.111(4) should be standardized and/or reviewed by OGC and ONAP for approval as a precondition for participation in the section 184 program.

HUD response: Tribes are required to adopt foreclosure, eviction, and priority of lien procedures to be eligible for participation in the section 184 program. HUD does not approve or review the text of each procedure. This function is left to Tribal discretion. The Department will simply ensure that such procedures do exist. In order to provide maximum flexibility and Tribal discretion in the matter of establishing foreclosure and eviction policies HUD has determined to only recognize the existence of such procedures and not a line by line technical review of each tribe's policies.

One commentor stated that the 60-day time period for appealing decisions under § 955.111(b)(4)(ii) should be reduced to 30 days.

HUD response: HUD agrees with the commentor and will change the 60-day time period for appealing decisions under § 955.111(b)(4)(ii) to 30 days.

One commentor stated that Indian nation public policy allows for a wide range of collateral arrangements.

HUD response: The rule takes this into account by specifying that collateral may include, but is not limited to, the categories specified.

One commentor objected to the priority of loan obligation provision, asserting that it gives HUD oversight regarding the substantive content of Indian nation law.

HUD response: This is a critical step to ensure the financial stability of this new loan program and will provide the tribes and the Department with the assurance of prompt action and protection of the guaranteed loan.

One commentor objected to the requirement that tribes must certify that they have in place and will enforce procedures for eviction. The commentor stated that it is not required by the Statute.

HUD response: The Department has attempted to provide the broadest interpretation possible in all instances; however, in a totally new lending environment it is necessary to have in place at least minimal safeguards to the financial integrity of the loan guarantee fund.

One commentor objected to the enforcement requirement under § 955.111(b)(4)(i), stating that it infringes on Indian nation sovereignty.

HUD response: Once again the Department has determined that, in this entirely new lending environment, it is critical to have in place minimal standards that will ensure the financial integrity of the loan guarantee fund.

One commentor requested further clarification on the review of HUD decisions to cease issuing guarantees to specific tribes, saying that it is important to ensure due process rights.

HUD response: The Department has determined that due process rights of appeal have been developed to ensure maximum protection to both the Department and the tribes with several levels of appeal available and a final option to resubmit the appeal based upon new evidence following the exhaustion of all appeal levels.

Section 955.113 Certificate of Guarantee

No comments received concerning this section.

Section 955.115 Guarantee Fee

One commentor requested clarification on what happens to the one percent guarantee fee.

HUD response: Funds received as a result of the one percent guarantee fee are returned to the loan guarantee fund

to provide additional resources for additional loans.

Section 955.117 Liability Under Guarantee

No comments received concerning this section.

Section 955.119 Transfer and Assumptions

One commentor questioned whether HUD will require that all of the loans under the section 184 program be assumable, stating that many lenders are reluctant to underwrite assumable loans.

HUD response: There is no requirement that all of the loans under the section 184 program be assumable.

One commentor requested clarification regarding whether sales and assignments to financial institutions will be subject to the law of the Indian nations where the loans are made, in addition to being subject to agency supervision under state regulators.

HUD response: Transactions may be subject to tribal laws in addition to agency supervision under state regulations.

Section 955.121 Disqualification of Lenders and Civil Money Penalties

No comments received concerning this section.

Section 955.123 Payment Under Guarantee

Three commentors recommended that consideration be given to the issue of whether the loan guarantee program will allow nonjudicial remedies such as deeds of trust and escrow agents to be utilized as an alternative to judicial foreclosure, as referred to under § 955.123(a)(1)(i) of the interim rule.

HUD response: Any method that promotes collection is encouraged, because the statute requires the holder of the guarantee to exhaust all reasonable possibilities of collection before any payment under a guarantee is made.

Section 955.125 Expiration of Interim Rule

No comments received concerning this section.

V. Other Matters

Impact on Small Entities

The Department, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. Specifically, the requirements of this interim rule are directed to individual borrowers, Indian Housing Authorities, Tribal governments and financial institutions.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under this order. Specifically, the requirements of this rule are directed to individual borrowers and financial institutions.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this rule has potential for significant impact on family formation, maintenance, and general well-being. The Indian Loan Guarantee Program will make it possible for Native American families to build or acquire homes on their Native lands where homeownership opportunities have been very limited in the past. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

List of Subjects in 24 CFR Part 955

Indians, Loan programs—Indians, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 955 is revised to read as follows:

PART 955—LOAN GUARANTEES FOR INDIAN HOUSING

Sec.
955.101 Applicability and scope.
955.103 Definitions.
955.105 Eligible loans.
955.107 Eligible collateral.
955.109 Guarantee fee.
955.111 Safety and quality standards.

Authority: 42 U.S.C. 1715z-13a and 3535(d).

§ 955.101 Applicability and scope.

Under the provisions of section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z-13a), the Department of Housing and Urban Development (the Department) has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1- to 4-family homes to be owned by Native Americans on restricted Indian lands. This part provides requirements that are in addition to those in section 184.

(Approved by the Office of Management and Budget under control number 2577–0200.)

§ 955.103 Definitions.

In addition to the definitions that appear in Section 184 of the Housing and Community Development Act of 1992, the following definitions are applicable to loan guarantees under Section 184—

Default means the failure by a borrower to make any payment or to perform any other obligation under the terms of a loan, and such failure continues for a period of more than 30 days.

Indian means any person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State, and includes the term ''Native American''.

Mortgage as used in this part, means a first lien as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the property is located and may refer both to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or another term used in a particular jurisdiction, as well as the credit instrument, or note, secured thereby.

Principal residence means the dwelling where the mortgagor maintains (or will maintain) his or her permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

Section 184 means section 184 (entitled, ''Loan Guarantees for Indian Housing'') of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z-13a).

§ 955.105 Eligible loans.

(a) *In general.* Only fixed rate, fixed term loans with even monthly payments are eligible under the Section 184 program.

(b) *Eligible borrowers.* A loan guaranteed under Section 184 may be made to a borrower that is:

(1) An Indian who will occupy it as a principal residence and who is

otherwise qualified under Section 184; or

(2) An Indian Housing Authority.

(c) *Appraisal of labor value.* The value of any improvements to the property made through the skilled or unskilled labor of the borrower, which may be used to make a payment on account of the balance of the purchase price, must be appraised in accordance with generally acceptable practices and procedures.

(d) *Construction advances.* The Department may guarantee loans from which advances will be made during construction. The Department will provide guarantees for advances made by the mortgagee during construction if all of the following conditions are satisfied:

(1) The mortgagor and the mortgagee execute a building loan agreement, approved by HUD, setting forth the terms and conditions under which advances will be made;

(2) The advances are made only as provided in the commitment;

(3) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or to his or her creditors as provided in the loan agreement; and

(4) The mortgage shall bear interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor.

(e) *Environmental compliance.* Prior to the guarantee of any loan, there must be compliance with the environmental rules as stated in 24 CFR part 50.

§ 955.107 Eligible collateral.

(a) *In general.* A loan guaranteed under Section 184 may be secured by any collateral authorized under Federal, State, or tribal law and determined by the lender and approved by the Department to be sufficient to cover the amount of the loan, and may include, but is not limited to, the following:

(1) The property and/or improvements to be acquired, constructed, or rehabilitated, to the extent that an interest in such property is not subject to the restrictions of trust lands against alienation;

(2) A first or second mortgage on property other than trust land;

(3) Personal property; or

(4) Cash, notes, an interest in securities, royalties, annuities, or any other property that is transferable and whose present value may be determined.

(b) *Trust land as collateral.* If trust land is used as collateral for the loan, the following additional provisions apply:

(1) *Approved Lease.* Any land lease for a unit financed under Section 184 must be on a form approved by both HUD and the Bureau of Indian Affairs, U.S. Department of Interior.

(2) *Assumption or sale of leasehold.* If a leasehold is used as security for the loan, the loan form must contain a provision requiring tribal consent before any assumption of an existing lease, except where title to the leasehold interest is obtained by the Department through foreclosure of the guaranteed mortgage. A mortgagee other than the Department must obtain tribal consent before obtaining title through a foreclosure sale. Tribal consent must be obtained on any subsequent transfer from the purchaser, including the Department, at foreclosure sale. The lease may not be terminated by the lessor without HUD's approval while the mortgage is guaranteed or held by the Department.

(3) *Priority of loan obligation.* Any tribal government whose courts have jurisdiction to hear foreclosures must enact a law providing for the satisfaction of a loan guaranteed or held by the Department before other obligations (other than tribal leasehold taxes against the property assessed after the property is mortgaged) are satisfied.

(4) *Eviction procedures.* Before HUD will guarantee a loan secured by trust land, the tribe having jurisdiction over such property must notify the Department that it has adopted and will enforce procedures for eviction of defaulted mortgagors where the guaranteed loan has been foreclosed.

(i) *Enforcement.* If the Department determines that the tribe has failed to enforce adequately its eviction procedures, HUD will cease issuing guarantees for loans for tribal members except pursuant to existing commitments. Adequate enforcement is demonstrated where prior evictions have been completed within 60 days after the date of the notice by HUD that foreclosure was completed.

(ii) *Review.* If the Department ceases issuing guarantees in accordance with the first sentence of paragraph (c)(1) of this section, HUD shall notify the tribe of the reasons for such action and that the tribe may, within 30 days after notification of HUD's action, file a written appeal with the Field Office of Native American Programs (FONAP) Administrator. Within 30 days after notification of an adverse decision of the appeal by the FONAP Administrator, the tribe may file a written request for review with the Deputy Assistant Secretary, Office of Native American Programs (ONAP). Upon notification of an adverse decision by the Deputy Assistant Secretary, the tribe has 30 additional days to file an appeal with the Assistant Secretary for Public and Indian Housing. The determination of the Assistant Secretary shall be final, but the tribe may resubmit the issue to the Assistant Secretary for review at any subsequent time if new evidence or changed circumstances warrant reconsideration. (Any other administrative actions determined to be necessary to debar a tribe from participating in this program will be subject to the formal debarment procedures contained in 24 CFR part 24.)

§ 955.109 Guarantee fee.

The lender shall pay to the Department, at the time of issuance of the guarantee, a fee for the guarantee of loans under Section 184, in an amount equal to 1 percent of the principal obligation of the loan. This amount is payable by the borrower at closing.

§ 955.111 Safety and quality standards.

Loans guaranteed under Section 184 shall be made only on dwelling units which meet safety and quality standards set forth herein. Each unit must:

(a) Be decent, safe, sanitary, and modest in size and design;

(b) Conform with applicable general construction standards for the region;

(c) Contain a heating system that:

(1) Has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(2) Is safe to operate and maintain;

(3) Delivers a uniform distribution of heat; and

(4) Conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(d) Contain a plumbing system that:

(1) Uses a properly installed system of piping;

(2) Includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(3) Uses water supply, plumbing and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(e) Contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(f) Be not less than:

(1) 570 square feet in size, if designed for a family of not more than 4 persons;

(2) 850 square feet in size, if designed for a family of not less than 5 and more than 7 persons; and

(3) 1020 square feet in size, if designed for a family of not less than 8 persons; or

(4) The size provided under the applicable locally adopted standards for size of dwelling units; except that the Department, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(g) Conform with the energy performance requirements for new construction established by the Department under section 526(a) of the National Housing Act (12 U.S.C. 1735f-4).

Dated: February 26, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[Note: The following appendix will not be codified in the Code of Federal Regulations.]

Appendix—Guide to Loan Guarantees for Indian Housing

Section 1. Purpose, applicability and scope.
Section 2. Definitions.
Section 3. Eligible loans.
Section 4. Eligible housing.
Section 5. Eligible lenders.
Section 6. Eligible collateral.
Section 7. Certificate of Guarantee.
Section 8. Guarantee fee.
Section 9. Liability under guarantee.
Section 10. Transfer and assumptions.
Section 11. Disqualification of lenders and civil money penalties.
Section 12. Payment under guarantee.

Section 1. Purpose, Applicability and Scope

The purpose of this guide is to present, in a single document, the statutory and regulatory requirements that apply to the Loan Guarantees for Indian Housing Program under section 184 of the Housing and Community Development Act of 1992 (P.L. 102–550, approved October 28, 1992). Although it presents the regulatory and statutory requirements in a combined format, this guide is a secondary source for these requirements. The Code of Federal Regulations (CFR), at 24 CFR, is the primary, governing source for regulatory requirements, and section 184 of the Housing and Community Development Act of 1992 is the primary, governing source for statutory requirements.

Under the provisions of Section 184, the Department of Housing and Urban Development (the Department) has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1- to 4-family homes to be owned by Native Americans on restricted Indian lands. This guide describes the eligibility of borrowers, lenders and property, as well as the benefits of the Indian Loan Guarantee Program.

Section 2. Definitions

Default means the failure by a borrower to make any payment or to perform any other obligation under the terms of a loan, and such failure continues for a period of more than 30 days.

Department means the U. S. Department of Housing and Urban Development (HUD).

Guarantee Fund means the Indian Housing Loan Guarantee Fund established under section 184(i) of the Housing and Community Development Act of 1992.

Indian means any person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State, and includes the term ''Native American''.

Indian area means the area within which an Indian housing authority is authorized to provide housing.

Indian Housing Authority (IHA) means any entity that is authorized to engage in or assist in the development or operation of low-income housing for Indians and that is established either (1) by exercise of the power of self-government of an Indian tribe independent of State law; or (2) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

Mortgage as used in this part, means a first lien as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the property is located and may refer both to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or another term used in a particular jurisdiction, as well as the credit instrument, or note, secured thereby.

Principal residence means the dwelling where the mortgagor maintains (or will maintain) his or her permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

Secretary means the Secretary of Housing and Urban Development.

Section 184 means section 184 (entitled, ''Loan Guarantees for Indian Housing'') of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

Standard housing means a dwelling unit or housing that complies with the requirements established in this part.

Tribe means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

Trust land means land, title to which is held by the United States for the benefit of an Indian or Indian tribe; or, land, title to which is held by an Indian tribe, subject to a restriction against alienation imposed by the United States.

Section 3. Eligible Loans

(a) *In general.* Only fixed rate, fixed term loans with even monthly payments are eligible under the Section 184 program.

(b) *Eligible borrowers.* A loan guaranteed under Section 184 may be made to a borrower that is:

(1) An Indian who will occupy it as a principal residence and who is otherwise qualified under this part; or

(2) An Indian Housing Authority

(c) *Terms of loan.* The loan shall:

(1) Be made for a term not exceeding 30 years;

(2) Bear interest (exclusive of the guarantee fee and service charges, if any) at a fixed rate agreed upon by the borrower and the lender and determined by the Department to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Department) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government.

(d) *Maximum mortgage amounts.*

(1) A principal obligation may not exceed:

(i) An amount equal to the sum of:

(A) 97 percent of the first $25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and

(B) 95 percent of such value in excess of $25,000; and

(ii) Amounts approved otherwise by the Department.

(2) The balance of the purchase price must involve a payment on account of the property that may be:

(i) In cash or other property of equivalent value acceptable to the lender and the Department, or

(ii) The value of any improvements to the property made through the skilled or unskilled labor of the borrower, appraised in accordance with generally acceptable practices and procedures.

(e) *Construction advances.* The Department may guarantee loans from which advances will be made during construction. The Department will provide guarantees for advances made by the mortgagee during construction if all of the following conditions are satisfied:

(1) The mortgagor and the mortgagee execute a building loan agreement, approved by HUD, setting forth the terms and conditions under which advances will be made;

(2) The advances are made only as provided in the commitment;

(3) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or to his or her creditors as provided in the loan agreement; and

(4) The mortgage shall bear interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor.

(f) *Environmental compliance.* Prior to the guarantee of any loan, there must be compliance with the environmental rules as stated in 24 CFR part 50.

Section 4. Eligible Housing

(a) *In general.* A loan guaranteed under Section 184 may be used for the construction, acquisition, or rehabilitation of a 1- to 4-family dwelling unit located on trust land or land located in an Indian area.

(b) *Safety and quality standards.* Loans guaranteed under Section 184 shall be made only on dwelling units which meet safety and quality standards set forth herein. Each unit must:

(1) Be decent, safe, sanitary, and modest in size and design;

(2) Conform with applicable general construction standards for the region;

(3) Contain a heating system that:

(i) Has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(ii) Is safe to operate and maintain;

(iii) Delivers a uniform distribution of heat; and

(iv) Conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) Contain a plumbing system that:

(i) Uses a properly installed system of piping;

(ii) Includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(iii) Uses water supply, plumbing and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) Contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) Be not less than:

(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(iv) The size provided under the applicable locally adopted standards for size of dwelling units; except that the Department, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) Conform with the energy performance requirements for new construction established by the Department under section 526(a) of the National Housing Act.

Section 5. Eligible Lenders

The loan shall be made only by a lender approved by and meeting qualifications established in this part, except that loans otherwise insured or guaranteed by any agency of the Federal Government, or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this part. The following lenders are deemed to be approved under this part:

(a) Any mortgagee approved by the Department of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(b) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(c) Any lender approved by the Department of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(d) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

Section 6. Eligible Collateral

(a) *In general.* A loan guaranteed under Section 184 may be secured by any collateral authorized under Federal, State, or tribal law and determined by the lender and approved by the Department to be sufficient to cover the amount of the loan, and may include, but is not limited to, the following:

(1) The property and/or improvements to be acquired, constructed, or rehabilitated, to the extent that an interest in such property is not subject to the restrictions of trust lands against alienation;

(2) A first or second mortgage on property other than trust land;

(3) Personal property; or

(4) Cash, notes, an interest in securities, royalties, annuities, or any other property that is transferable and whose present value may be determined.

(b) Trust land as collateral. If trust land is used as collateral for the loan, the following additional provisions apply:

(1) Approved Lease. Any land lease for a unit financed under Section 184 must be on a form approved by both HUD and the Bureau of Indian Affairs, U.S. Department of Interior.

(2) Assumption or sale of leasehold. If a leasehold is used as security for the loan, the loan form must contain a provision requiring tribal consent before any assumption of an existing lease, except where title to the leasehold interest is obtained by the Department through foreclosure of the guaranteed mortgage. A mortgagee other than the Department must obtain tribal consent before obtaining title through a foreclosure sale. Tribal consent must be obtained on any subsequent transfer from the purchaser, including the Department, at foreclosure sale. The lease may not be terminated by the lessor without HUD's approval while the mortgage is guaranteed or held by the Department.

(3) Eviction procedures. Before HUD will guarantee a loan secured by trust land, the tribe having jurisdiction over such property must notify the Department that it has adopted and will enforce procedures for eviction of defaulted mortgagors where the guaranteed loan has been foreclosed.

(i) Enforcement. If the Department determines that the tribe has failed to enforce adequately its eviction procedures, HUD will cease issuing guarantees for loans for tribal members except pursuant to existing commitments. Adequate enforcement is demonstrated where prior evictions have been completed within 60 days after the date of the notice by HUD that foreclosure was completed.

(ii) Review. If the Department ceases issuing guarantees in accordance with the first sentence of paragraph (c)(1) of this section, HUD shall notify the tribe of the reasons for such action and that the tribe may, within 30 days after notification of HUD's action, file a written appeal with the Field Office of Native American Programs (FONAP) Administrator. Within 30 days after notification of an adverse decision of the appeal by the FONAP Administrator, the tribe may file a written request for review with the Deputy Assistant Secretary, Office of Native American Programs (ONAP). Upon notification of an adverse decision by the Deputy Assistant Secretary, the tribe has 30 additional days to file an appeal with the Assistant Secretary for Public and Indian Housing. The determination of the Assistant Secretary shall be final, but the tribe may resubmit the issue to the Assistant Secretary for review at any subsequent time if new evidence or changed circumstances warrant reconsideration. (Any other administrative actions determined to be necessary to debar a tribe from participating in this program will be subject to the formal debarment procedures contained in 24 CFR part 24).

Section 7. Certificate of Guarantee

(a) Extent of guarantee. A certificate issued in accordance with Section 184 guarantees 100 percent of the unpaid principal and interest of the underlying loan.

(b) Approval process. Before the Department approves any loan for guarantee under this part, the lender shall submit the application or the loan to the Department for examination. If the Department approves the loan for guarantee, the Department will issue a certificate under Section 184 as evidence of the guarantee.

(c) Standard for approval. The Department may approve a loan for guarantee under Section 184 and issue a certificate only if the Department determines there is a reasonable prospect of repayment of the loan.

(d) Effect. A certificate of guarantee issued under Section 184 by the Department shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of Section 184 and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Department as security for such obligations.

(e) Fraud and misrepresentation. Nothing in Section 184 may preclude the Department from establishing:

(1) Defenses against the original lender based on fraud or material misrepresentation; and

(2) Establishing partial defenses, based upon regulations in effect on the date of issuance or disbursement (whichever is earlier), to the amount payable on the guarantee.

Section 8. Guarantee Fee

The lender shall pay to the Department, at the time of issuance of the guarantee, a fee for the guarantee of loans under Section 184, in an amount equal to 1 percent of the principal obligation of the loan. This amount is payable by the borrower at closing.

Section 9. Liability Under Guarantee

The liability under a guarantee provided in accordance with Section 184 shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

Section 10. Transfer and Assumptions

Notwithstanding any other provision of law, any loan guaranteed under this part, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

Section 11. Disqualification of Lenders and Civil Money Penalties

(a) General. If the Department determines that a lender or holder of a guarantee certificate under Section 184 has failed to maintain adequate accounting records, to adequately service loans guaranteed under Section 184, to exercise proper credit or underwriting judgement, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Department may:

(1) Refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(2) Bar such lender or holder from acquiring additional loans guaranteed under Section 184; and

(3) Require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under Section 184.

(b) Civil money penalties for intentional violations. If the Department determines that any lender or holder of a guarantee certificate under Section 184 has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under Section 184, or to exercise proper credit or underwriting judgement, the Department may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(c) Payment of loans made in good faith. Notwithstanding paragraphs (a) and (b), the Department may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under Section 184, if the loans were previously made in good faith.

Section 12. Payment Under Guarantee

(a) Lender options.

(1) General. In the event of default by the borrower on a loan guaranteed under this part, the holder of the guarantee certificate shall provide written notice of the default to the Department. Upon providing this notice, the holder of the guarantee certificate will be entitled to payment under the guarantee (subject to the provisions of this part) and may proceed to obtain payment in one of the following manners:

(i) Foreclosure. The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Department) and upon a final order by the court authorizing foreclosure and submission to the Department of a claim for payment under the guarantee, the Department will pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined in accordance with Section 9 of this guide) plus reasonable fees and expenses as approved by the Department. The Department will be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Department.

(ii) No foreclosure. Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under paragraph (i) of this section continues for a period in excess of 1 year), the holder of the guarantee may submit to the Department a claim for payment under the guarantee and the Department will only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined in accordance with Section 9 of this guide). The Department will be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Department.

(2) Requirements. Before any payment under a guarantee is made under paragraph (1) of this section, the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note of judgement evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States.

(b) Assignment by the Department. Notwithstanding paragraph (a) of this section, upon receiving notice of default on a loan guaranteed under Section 184 from the holder of the guarantee, the Department may accept assignment of the loan if the Department determines that the assignment is in the best interests of the United States. Upon assignment the Department will pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined in accordance with Section 9 of this guide). The Department will be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Department.

(c) Limitations on liquidation. In the event of default by the borrower on a loan guaranteed under Section 184 involving a security interest in tribal allotted or trust land, the Department will only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Department subsequently proceeds to liquidate the account, the Department will not sell, transfer, otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

[FR Doc. 96–5050 Filed 3–5–96; 8:45 am]

BILLING CODE 4210–33–P

federal register

Wednesday
March 6, 1996

Part VII

Department of Health and Human Services

Food and Drug Administration

International Harmonisation Conference; Draft Guideline Availability: Stability Testing for New Dosage Forms; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0028]

International Conference on Harmonisation; Draft Guideline on Stability Testing for New Dosage Forms; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guideline entitled ''Stability Testing for New Dosage Forms.'' The draft guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guideline addresses the generation of stability information for new dosage forms for submission to FDA by the owner of the original application. The draft guideline is an annex to the ICH guideline entitled ''Stability Testing of New Drug Substances and Products.''

DATES: Written comments by June 4, 1996.

ADDRESSES: Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the draft guideline are available from the Division of Communications Management (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1012. An electronic version of this guideline is also available via Internet by connecting to the CDER file transfer protocol (FTP) server (CDVS2.CDER.FDA.GOV).

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Guiragos K. Poochikian, Center for Drug Evaluation and Research (HFD–570), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1050.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

At a meeting held on November 29, 1995, the ICH Steering Committee agreed that a draft guideline entitled ''Stability Testing for New Dosage Forms'' should be made available for public comment. The draft guideline is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group. Ultimately, FDA intends to adopt the ICH Steering Committee's guideline.

In the Federal Register of September 22, 1994 (59 FR 48754), FDA published a guideline entitled ''Stability Testing of New Drug Substances and Products.'' The guideline addresses the generation of stability information for submission to FDA in new drug applications for new molecular entities and associated drug products. For biotechnological/biological products, see ''Quality of Biotechnological/Biological Products: Stability Testing of Biotechnological/Biological Products'' (60 FR 43501, August 21, 1995).

This draft guideline is an annex to that guideline and addresses the generation of stability information for new dosage forms for submission to FDA by the owner of the original application, after the original submission for new drug substances and products.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this guideline does not create or confer any rights for or on any person and does not operate to bind FDA in any way, it does represent the agency's current thinking on stability testing for new dosage forms.

Interested persons may, on or before June 4, 1996, submit to the Dockets Management Branch (address above) written comments on the draft guideline. 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 draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the draft guideline follows:

Stability Testing for New Dosage Forms

1. General

The ICH harmonized Tripartite Guideline on Stability Testing of New Drug Substances and Products was issued on October 27, 1993. This document is an annex to the ICH parent stability guideline and addresses what should be submitted regarding stability of new dosage forms by the owner of the original application, after the original submission for new drug substances and products. For biotechnological/biological products, see the guideline ''Quality of Biotechnological/Biological Products: Stability Testing of Biotechnological/Biological Products.''

2. New Dosage Forms

A new dosage form is defined as a drug product which is a different pharmaceutical product type but contains the same active substance as included in the existing drug product approved by the pertinent regulatory authority.

Such pharmaceutical product types include products of different administration route (e.g., oral to parenteral), new specific functionality/delivery systems (e.g., immediate release tablet to modified release tablet), and different dosage forms of the

same administration route (e.g., capsule to tablet, solution to suspension).

New dosage forms should follow the guidance in the parent stability guideline in principle; however, a reduced stability database at submission time, e.g., 6 months accelerated and 6 months long-term data from ongoing studies, may be acceptable in certain justified cases.

Dated: February 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5215 Filed 3–5–96; 8:45 am]

BILLING CODE 4160–01–F

federal register

Wednesday
March 6, 1996

Part VIII

Department of Housing and Urban Development

Environmental Protection Agency

24 CFR Part 35

40 CFR Part 745

Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 35

RIN 2501–AB58

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS–62130A; FRL–5347–9]

RIN 2070–AC75

Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing

AGENCIES: Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: As a result of past Federal, State, and local efforts to reduce lead in the environment, the percentage of children with elevated levels of lead in their blood has declined considerably over the last 20 years. Approximately 1.7 million children, however, still have blood-lead levels high enough to raise health concerns. Studies suggest that lead exposure from deteriorated residential lead-based paint, contaminated soil, and lead in dust are among the major existing sources of lead exposure among children in the United States. Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 directs EPA and HUD to jointly issue regulations requiring disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phaseout of residential lead-based paint use in 1978. Under that authority, EPA and HUD are establishing the following requirements: (1) Sellers and lessors of most residential housing built before 1978 must disclose the presence of known lead-based paint and/or lead-based paint hazards in the housing; (2) sellers and lessors must provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; (3) sellers and lessors must provide purchasers and lessees with a federally approved lead hazard information pamphlet; (4) sellers must provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; (5) sales and leasing contracts must include certain disclosure and acknowledgment language; and (6) agents must ensure compliance with these requirements. These provisions ensure that families receive both specific information on the housing's lead history and general information on lead exposure prevention. With this information, consumers can make more informed decisions concerning home purchase, lease, and maintenance to protect their families from lead hazard exposure.

DATES: Effective date: March 6, 1996 except for 24 CFR 35.88, 35.90, 35.92, and 35.94 and 40 CFR 745.107, 745.110, 745.113, and 745.115 which contain information collection requirements that have not been approved by OMB. Once OMB has approved these information collection requirements, EPA and HUD will publish a document giving notice of the effective date and adding the OMB approval number to 24 CFR part 35 and 40 CFR part 9.

The requirements in this final rule are applicable in the following manner: (1) For owners of more than four residential dwellings, the requirements are applicable on September 6, 1996 and (2) For owners of one to four residential dwellings, the requirements are applicable on December 6, 1996.

FOR FURTHER INFORMATION CONTACT: For general information or to obtain copies of the final rule, pamphlet, or background materials, contact the National Lead Information Clearinghouse (NLIC), toll free, at (800) 424-LEAD or fax requests to the NLIC at (202) 659-1192. Copies of the final rule, a brief question-and-answer document, and the pamphlet *Protect Your Family From Lead In Your Home*, are available on the Internet at the National Safety Council's gopher at cais.com and on the World Wide Web at http://www.nsc.org/nsc/ehc/ehc.html. For technical information: At HUD, contact Conrad C. Arnolts, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing and Urban Development, 451 7th St., SW., Washington, DC 20410, Telephone: (202) 755-1810, E-mail: conrad—c.—arnolts@hud.gov (use underscore characters), or John B. Shumway, Office of General Counsel, Telephone: (202) 708-9988, E-mail: John—B.—Shumway@hud.gov (use underscore characters). Persons who are hearing impaired may access these telephone numbers by calling the Federal Information Relay Service at 1-800-877-TDDY.

At EPA, contact Charles Franklin, Chemical Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260-1781, E-mail: franklin.charles@epamail.epa.gov.

For general information or to obtain copies of the final rule, pamphlet, or background materials, contact the National Lead Information Clearinghouse (NLIC), toll free, at (800) 424–LEAD or fax requests to the NLIC at (202) 659–1192.

Copies of the final rule, a brief question-and-answer document, and the pamphlet *Protect Your Family From Lead In Your Home*, are available on the Internet at the National Safety Council's gopher at cais.com and on the World Wide Web at http://www.nsc.org/nsc/ehc/ehc.html.

SUPPLEMENTARY INFORMATION:

I. Authority

This final rule is issued under the authority of section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d). The Residential Lead-Based Paint Hazard Reduction Act is Title X of the Housing and Community Development Act of 1992, Pub. L. 102-550.

II. Background

A. Legal Background

Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (hereafter referred to as Title X or the Act) to address the need to control exposure to lead-based paint hazards. In addition to amending the Toxic Substances Control Act (TSCA) and the Lead-Based Paint Poisoning Prevention Act (LBPPPA), Title X established the infrastructure and standards necessary to reduce lead-based paint hazards in housing. Within this law, Congress recognized lead poisoning as a particular threat to children under age 6 and emphasized the needs of this vulnerable population (section 1003 of Title X).

Section 1018 of Title X requires EPA and HUD to promulgate joint regulations for disclosure of any known lead-based paint or any known lead-based paint hazards in target housing offered for sale or lease. (Target housing is defined in section 1004(27) of Title X, section 401(17) of TSCA, and is discussed in Unit IV.C. of this preamble.) Specifically, section 1018 requires the following activities before a purchaser or lessee is obligated under a contract to purchase or lease target housing: (1) Sellers and lessors must provide purchasers and lessees with a lead hazard information pamphlet, as developed under section 406(a) of TSCA; (2) sellers and lessors must

disclose the presence of known lead-based paint and/or lead-based paint hazards in such housing and provide purchasers and lessees with any lead hazard evaluation report available to the seller or lessor; (3) sellers must permit purchasers a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint hazards; and (4) sales contracts must include an attached Lead Warning Statement and acknowledgment, signed by the purchaser.

Violation of section 1018 may result in civil and criminal penalties and potential triple damages in a private civil suit.

Section 1018 mandated that EPA and HUD promulgate these requirements no later than 2 years after the date of enactment of Title X (October 28, 1994), to take effect 3 years after enactment of Title X (October 28, 1995). Due to promulgation delays, EPA and HUD have revised the effective date provisions for this rule.

This rule represents one of a broad range of interrelated lead exposure reduction activities mandated under Title X. Many of these other activities support and affect the development of the section 1018 rule. Several of the activities most closely related to the disclosure requirements are briefly discussed below.

The statutory provision most closely tied to section 1018 is section 406(a) of TSCA. Section 406(a) directs EPA to develop and publish, after notice and comment, a lead hazard information pamphlet on lead-based paint hazards in the home. EPA developed the pamphlet in consultation with HUD, the Centers for Disease Control and Prevention (CDC), and the Consumer Product Safety Commission (CPSC), which has joined as a co-sponsor of the pamphlet. EPA issued a notice of availability in the Federal Register of August 1, 1995 (60 FR 39167), to announce the pamphlet's completion. As mandated under section 1018 of Title X, this lead hazard information pamphlet must be given to purchasers and lessees of target housing.

Under section 403 of TSCA, EPA is charged with issuing regulations that identify lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil, based on the definitions provided in section 401 of TSCA. In July 1994, EPA released an interim guidance document to provide public and private decisionmakers with guidance on identifying and prioritizing lead-based paint hazards for control before the issuance of the final section 403 standards. EPA subsequently issued the interim guidance document in the Federal Register of September 11, 1995 (60 FR 47248). EPA is in the process of developing the proposed section 403 standards.

Section 402 of TSCA directs EPA (in consultation with HUD, the Department of Labor (DOL), and the Department of Health and Human Services (HHS)) to promulgate regulations on accreditation of training programs and training and certification of individuals and contractors engaging in lead-based paint evaluation and reduction activities. This section also requires that EPA, in consultation with the above agencies, develop standards for performance of such lead-based paint evaluation and reduction activities. EPA issued the proposed section 402 rule on September 2, 1994 (59 FR 45872), and expects to issue the final rule shortly. Under the section 1018 disclosure requirements issued today, available reports resulting from such evaluation and reduction activities must be provided to the purchaser or lessee.

Pursuant to sections 1012 and 1013 of Title X, HUD is drafting regulations setting out procedures for all federally owned residential property and housing receiving Federal assistance. These procedures concern occupant notification as well as evaluation (such as inspection and risk assessment) and reduction (such as interim controls and abatement) of lead-based paint and/or lead-based paint hazards. The regulations implementing sections 1012 and 1013 will not address the provision of a lead hazard information pamphlet to new purchasers and lessees of target housing, nor any of the other requirements under section 1018. HUD will release these regulations in proposed form as soon as possible for public comment.

Pursuant to section 1015 of Title X, HUD and EPA established a Task Force on Lead-Based Paint Hazard Reduction and Financing, made up of private and public organizations representing the spectrum of interests affected by the lead-based paint issue. The Task Force developed recommendations on evaluating and reducing lead-based paint hazards in private housing. The Task Force released its recommendations on July 11, 1995, in a report entitled *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing.* A copy of this report has been entered into the public record for this rule.

Pursuant to section 1017 of Title X, HUD and EPA, in cooperation with other Federal Agencies, have revised HUD's guidelines for lead-based paint hazard evaluation and reduction activities. These revised guidelines, entitled *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (hereafter referred to as the ''HUD Guidelines''), were released to the public in June 1995. A copy of the HUD Guidelines is included in the public record for this rule.

B. Lead Poisoning in the United States

Lead affects virtually every system of the body. While it is harmful to individuals of all ages, lead exposure can be especially damaging to children, fetuses, and women of childbearing age. As recent studies have identified previously unrecognized effects, there has been increasing concern about blood-lead levels once thought to be safe. Since 1978, CDC has lowered the blood-lead level of concern from 60 μg/dL (micrograms per deciliter) to 10 μg/dL (Ref. 2).

Lead poisoning has been called ''the silent disease'' because its effects may occur gradually and imperceptibly, often showing no obvious symptoms. Blood-lead levels as low as 10 μg/dL have been associated with learning disabilities, growth impairment, permanent hearing and visual impairment, and other damage to the brain and nervous system. In large doses, lead exposure can cause brain damage, convulsions, and even death. Lead exposure before or during pregnancy can also alter fetal development and cause miscarriages.

In 1991, the Secretary of HHS characterized lead poisoning as the ''number one environmental threat to the health of children in the United States'' (Ref. 1). Although the percentage of children with elevated blood-lead levels has declined over the last 20 years, millions of U.S. children still have blood-lead levels high enough to threaten their health (Ref. 1). The Third National Health and Nutrition Examination Survey (NHANES III) indicates that over the past two decades, the average child's blood-lead level has decreased from 12.8 μg/dL to 2.8 μg/dL (Ref. 8). NHANES III also indicates, however, that in 1991 approximately 1.7 million U.S. children under the age of 6 still had blood-lead levels that exceeded the CDC 10 μg/dL level of concern (Ref. 8).

C. Hazards from Past Uses of Lead-Based Paint

Efforts to reduce exposure to lead from sources like gasoline and food cans have played a large role in the past reductions of blood-lead levels in the United States. Despite these successes, a significant human health hazard remains from improperly managed lead-based paint. From the turn of the

century through the 1940's, paint manufacturers used lead as a primary ingredient in many oil-based interior and exterior house paints. Usage gradually decreased through the 1950's and 1960's, as largely lead-free latex paints became more popular. Although the CPSC banned lead-based paints from residential use in 1978 (currently, paints may not have greater than 0.06 percent lead by weight (Ref. 3)), EPA and HUD estimate that 83 percent of the privately owned housing units built in the United States before 1980 contain some lead-based paint. By these estimations, approximately 64 million homes may contain lead-based paint that may pose a hazard to the occupants if not managed properly (Ref. 4).

Lead from exterior house paint can flake off or leach into the soil around the outside of a home, contaminating children's playing areas. Dust caused during normal lead-based paint wear (especially around windows and doors) can create a hard-to-see film over surfaces in a house. In some cases, cleaning and renovation activities can increase the threat of lead-based paint exposure by dispersing fine lead dust particles in the air and over accessible household surfaces. If managed improperly, both adults and children can receive hazardous exposures by inhaling the fine dust or by ingesting paint dust during hand-to-mouth activities. Children under age 6 are especially susceptible to lead poisoning (Ref. 2).

III. Summary of Proposed Rule and Public Comments

Under the authority of Title X, EPA and HUD issued a proposed rule in the Federal Register of November 2, 1994 (59 FR 54984). The proposed rule described the basic approach for implementing the requirements under section 1018, including draft regulatory text, definitions, and standardized form language for use in all transactions. In many cases, EPA and HUD also included a range of options for implementing the rule along with requests for comment on specific implementation issues.

In response to the proposed rule, identified by docket number OPPTS-62130A, EPA and HUD received responses from 198 commenters during the 60-day comment period. The largest number of responses (approximately 25 percent) came from the real estate industry. Other commenter groups included representatives from the banking/financial industry (9 percent), letters from State and local officials involved with public health or environmental protection (8 percent), comments from advocacy groups (8 percent), letters from attorneys representing various groups (9 percent), and concerned private citizens (23 percent). Approximately 10 percent of the responses came from education officials, housing authorities, and groups involved with real estate development and construction. The paragraphs that follow briefly describe some of the key areas that were addressed by the commenters.

A number of comments addressed the scope and applicability of the rule. Commenters discussed a range of transaction types for specific exclusion or inclusion.

While numerous comments addressed the various definitions contained in the rule, most suggestions involved revisions and modifications to existing terms as opposed to requests that additional terms be defined. A prevalent theme was consistency of terminology across different rules such as those for sections 402, 404, and 406 of TSCA.

Comments concerning the disclosure requirement targeted issues such as the scope of disclosed information; the precise stage at which disclosures should be made; recordkeeping parameters; and the ways in which common areas of multi-unit buildings will be affected by disclosure.

The lead hazard information pamphlet requirements generated comments in the following three categories: strategies for States and tribes (hereafter, all references to States include Indian tribes) with their own notification materials; making the pamphlet available in other languages; and requests for more varied and active distribution strategies.

The proposed disclosure and acknowledgment form generated requests for simplification and availability in non-English languages. Some suggestions involved revising portions of the Lead Warning Statement.

The section of the proposed rule that received the most comments concerned the proposed 10-day evaluation period. Of particular concern were the commencement and length of the evaluation period; the practical availability of certified inspectors or risk assessors to do the testing; and the practicality and logistics of obligating purchasers to provide a report to sellers.

Other topics that elicited some comment included the role of the agent, the effective date of the rule, and potential penalties for noncompliance.

A more complete summary of the comments received, along with EPA's and HUD's responses, is available in the public record for this rulemaking.

IV. Final Rule Provisions and Key Comments Addressed

EPA and HUD have revised the proposed rule to reflect the Agencies' desire to maximize the rule's clarity, flexibility, consistency with other Federal activities, and consistency with existing real estate practice. These goals are important considerations to ensure quick and widespread implementation of the rule.

In particular, many of the changes to the final rule fall into five general categories. These areas include: (1) Clarifications of the rule's applicability, (2) modification of key definitions, (3) establishment of a clear and common sense disclosure process, (4) development of a concise disclosure record, and (5) development of a flexible framework for the 10-day evaluation period.

Throughout the preamble for this final rule, there are citations to 24 CFR part 35 and 40 CFR part 745. These references reflect the location that the final regulatory text will occupy in the *Code of Federal Regulations* (CFR) following the rule's promulgation. EPA and HUD are adding this final joint EPA/HUD regulation to both titles to ensure that the public can easily locate the requirements. Where the preamble references the actual rule language, therefore, it will regularly include references to the requirements as they appear in each title. While the requirements are identical, in some cases the nomenclature for the two titles may be slightly different.

A. Clarifying the Rule's Scope and Applicability

Section 1018 mandated that the rule apply to sales and leases of target housing. The proposed rule also discussed certain unique types of housing transactions that deserved special attention in implementing the regulations. For example, the preamble of the proposed rule explained the rule's exclusion of the following from the statutory definition of target housing: housing built after 1977, housing for the elderly, housing for the disabled, 0-bedroom dwellings, and commercial lodging. Many commenters recommended that the regulatory text of the final rule clearly designate types of transactions that are included and excluded.

EPA and HUD have expanded the scope and applicability section of the regulatory text to better define the rule's impact on certain types of transactions. Below is a brief discussion of the unique transactions addressed under the scope and applicability section and the

rationale for including or excluding them.

1. *Transactions to sell properties at foreclosure*. The final rule retains the exclusion for foreclosure sales presented in the proposed rule. While some commenters opposed exempting foreclosure transactions due to the lack of protection for the purchaser, EPA and HUD believe that the circumstances typically surrounding foreclosure transactions make pre-sale disclosure and evaluation unworkable and impractical. Access to properties during foreclosure proceedings is often limited, making evaluations impossible. Such properties typically are sold on an ''as is'' basis with regard to all structural and environmental factors. Further, these transactions do not necessarily involve direct interaction between the property owner and the purchaser, and the mortgage holder or trustee is unlikely to have information on the presence of lead-based paint and/or lead-based paint hazards. In light of these circumstances, EPA and HUD believe that it would be inappropriate to extend Federal disclosure and evaluation requirements to foreclosure transactions.

This exclusion does not apply, however, to the sale of housing originally acquired through a foreclosure sale and subsequently resold (an expansion of the exclusion recommended by some commenters). In such cases, EPA and HUD believe that the rule's provisions can be incorporated into the sales process since many of the extenuating circumstances of foreclosure sales no longer apply.

2. *Rental housing found to be free of lead-based paint*. The final rule exempts from coverage leasing transactions involving target housing that is free of lead-based paint, as determined by a certified inspector. For the purposes of this rule, EPA and HUD have defined ''lead-based paint free'' as the absence of paint with lead levels above those provided in Title X.

In addition to receiving support by many public commenters, this exclusion was recommended by the Task Force on Lead Hazard Reduction and Financing. EPA and HUD strongly encourage the concept of lead-based paint evaluation in rental housing. Evaluations can help lessors to detect the presence of lead-based paint and to determine whether certain management practices and occupant education efforts are necessary. Where evaluations discover lead-based paint, such results will provide lessors and/or lessees with the information necessary to take appropriate hazard reduction steps. EPA and HUD also believe that the exemption will provide a valuable incentive to building owners to conduct inspections and remove lead-based paint where present.

Under the provisions of the regulation, disclosure during rental transactions is limited to the disclosure of known lead-based paint and/or lead-based paint hazards, provision of available records and reports, provision of a lead hazard information pamphlet, and creation and retention of lead warning and acknowledgment language. These activities provide substantially fewer benefits in cases where reliable information indicates that the housing is lead-based paint free. At the same time, EPA and HUD expect that the exemption for lead-based paint free units will not dissuade many lessors from providing their inspection reports to prospective lessees on a voluntary basis. Given the value that lead-safe housing would have to an informed consumer, EPA and HUD expect that owners will see a great benefit in informing lessees of the housing's lead-based paint free status.

Because of the distinct disclosure obligations the statute imposes on sellers, obligations that purchasers assume upon purchase of the housing, EPA and HUD are not allowing the lead-based paint free exemption for sales transactions. Unlike lessees, purchasers take on new obligations to comply with the disclosure provisions during all subsequent sales or leasing transactions. Exempting sales transactions could disrupt the flow of information from owner to owner regarding the status of the target housing and the purchaser's potential disclosure obligations. Further, Title X guarantees purchasers more than just known information and available reports. Title X guarantees each purchaser the opportunity to conduct an evaluation for lead-based paint and/or lead-based paint hazards, regardless of the information disclosed by the seller. Exempting sales transactions based on the information in the possession of the seller would deny the purchaser that evaluation right. While many purchasers will accept the seller's information and waive their evaluation opportunity (especially if the seller provides an evaluation by a certified inspector), some purchasers may prefer to have their own evaluation performed.

Because the Federal training and certification program will not take effect until some time after the effective date of this rule, EPA and HUD recognize the need for a process to allow property owners to seek exclusions for lead-based paint free housing in States without federally authorized certification programs. In the interim period before the Federal certification program (to be issued under subpart L of 40 CFR part 745) takes effect, inspectors qualified under any existing State certification program, and using State-approved methods, are considered qualified to conduct inspections for the purpose of determining whether housing is lead-based paint free. In States without existing certification programs, lessors may use the services of inspectors certified in other States. Once the Federal or federally authorized State certification program has taken effect in a particular State, however, this interim provision will expire and subsequent inspections for the purposes of this exclusion will have to be performed by inspectors with Federal or federally authorized State certification.

Some commenters asked whether lessors hoping to meet the lead-free exemption could correct for possible false (or outdated) positive findings during lead-based paint inspections. The lessor always retains the option of having additional tests performed by certified inspectors. Nothing in either the law or the regulation is intended to revoke or restrict that right. An additional test can sometimes clarify whether or not lead-based paint is present. For example, if a lessor believed that a previous inspection had rendered a false-positive result (all measurement techniques involve some small degree of sampling and analytical error), the lessor could choose to have a certified inspector retest the area in question. If the additional testing by a certified inspector indicated that the initial positive results were false (i.e., that there was in fact no lead-based paint present), then the lessor would qualify for the lead-based paint free exemption. Similarly, suppose a lessor first had a test done in 1982 using an X-ray fluorescence (XRF) device that indicated the presence of lead-based paint. Because testing procedures were less reliable at that time (standard practice often failed to consider the effect of the substrate underneath the paint on the accuracy of the measurement and instrument calibration checks were often deficient), the lessor might choose to conduct a new test using the improved methodology available today. If this second test indicated that lead-based paint was not present, then the lessor would qualify for the lead-based paint free exemption. As a third example, a lessor who had all lead-based paint removed from a rental property following an earlier inspection could choose to have a new inspection or

clearance examination conducted on the abated property. If the new information indicated that lead-based paint was no longer present, then the lessor would qualify for the lead-based paint free exemption. In all three cases, if the second test confirmed the original findings, or if the test was not conducted by a certified inspector, the exemption would not be available.

3. *Short-term leases of 100 days or less.* Many commenters recommended that the final rule clarify the distinction between short-term lodgings and longer term residential housing. The final rule addresses these comments by excluding housing transactions involving leasing agreements of 100 days or less, where no lease renewal or extension can occur. This time period is intended to capture all leasing transactions of 3 months or less, while providing several additional days to allow flexibility in the transaction. Building upon the logic discussed in the proposed rule, the final rule's short-term lease exclusion captures most seasonal vacation rentals and hotel and motel transactions, as well as other forms of short-term lodging. During such transactions, which are typified by short stays and quick occupant turnover, EPA and HUD believe that the disclosure provisions are impractical and counter to Congressional intent. The notification requirements of this rule would apply to vacation rentals in cases where the stay extends beyond a 100-day period. Under such circumstances, EPA and HUD believe that the potential for occupant exposure to lead-based paint and/or lead-based paint hazards merits the disclosure of information required by the rule, regardless of whether the stated purpose of the lease is temporary or permanent housing.

In addition, EPA and HUD have placed a limitation on extensions and renewals of such short-term leases to ensure that month-to-month leasing transactions remain covered by the final rule. Commenters noted that many rental transactions incorporate an open-ended month-to-month leasing agreement. These transactions will still be covered by the final rule unless the parties establish in advance that the term of rental will be no longer than 100 days. In an open-ended month-to-month lease arrangement, for example, the rule still applies since the leasing agreement fails to limit the lease term to 100 days or less, i.e., the lease agreement could possibly be extended beyond 100 days. If both parties wish to extend a previously exempted short-term lease beyond the 100-day limit, all provisions of this rule must be satisfied in full before any such ''extension'' occurs.

4. *Lease renewals.* The final rule does not require repeated disclosure during the renewal of existing leases in which the lessor has previously disclosed all information required under 24 CFR 35.88 and 40 CFR 745.107 and where no new information has come into the possession of the lessor. As stated in the proposed rule, EPA and HUD do not believe that duplicative disclosure provides significant benefits.

Several commenters noted that in many residential leasing transactions, leasing arrangements switch to month-to-month ''at-will'' arrangements after an initial period of occupancy. In such cases, the leasing arrangement may continue indefinitely without any ''renewal process.'' Under such circumstances, EPA and HUD interpret renewal to occur at the point when the parties agree to a significant written change in the terms of the lease, such as a rental rate adjustment. Following such alteration of terms, the disclosure requirements apply to any new information obtained subsequent to the original disclosure.

5. *The purchase, sale, or servicing of mortgages.* The final rule does not cover, and was never intended to cover, the purchase, sale, or servicing of mortgages. During the comment period, many commenters expressed concern that the proposed rule could be interpreted to hold liable persons involved in the purchase, sale, or servicing of mortgages where the title of the housing does not change hands as part of the transaction.

6. *The sale or lease of 0-bedroom dwellings.* The final rule does not apply to transactions involving 0-bedroom dwellings, in keeping with the definition of ''target housing'' provided in section 1004 of Title X. This definition, at the heart of the section 1018 provisions, specifically excludes 0-bedroom dwellings of all types.

7. *Informal rental agreements.* In the proposed rule, EPA and HUD proposed excluding ''informal rental agreements which do not involve a lease'' (a phrase meant to capture oral leases) because ''such arrangements, by virtue of their informality, make the administration and enforcement of these requirements extremely difficult.'' EPA and HUD have removed any implied exclusion for oral leases. In deciding not to exclude such leases, EPA and HUD drew heavily upon the public comments. Many of these comments suggested that the absence of a written lease may not have bearing on the ''formality'' of the housing arrangement. Commenters noted that oral leases make up a significant portion of the housing arrangements in certain areas, especially those that lack rental housing codes.

Further, although the absence of a written lease provides challenges for certain Federal enforcement and compliance monitoring approaches, EPA and HUD now believe that enforcement is possible. Other evidence may exist, for example, to demonstrate that a leasing agreement exists between two parties. Congress also provided lessees with opportunities for redress under its civil penalty provisions at section 1018(b)(3). These safeguards are not dependent upon Agency actions and therefore should not be constrained by EPA and HUD limitations.

EPA and HUD have also considered policy reasons for not excluding oral leases. First, EPA and HUD are sympathetic to commenter concerns that an explicit exclusion for oral leasing transactions could create incentives for lessors to avoid written leases. If the rule's exclusion were to indirectly discourage the use of written leases, lessees would lose both their right to information on lead-based paint poisoning prevention and the many other protections afforded by written leases. Commenters also noted that a disproportionate number of oral transactions occur in low-income, disadvantaged communities. These communities are already at greater risk of exposure to lead-based paint hazards.

Nevertheless, while the final rule does not provide an explicit exclusion for oral leasing arrangements, EPA and HUD expect that many oral lease transactions may be excluded for other reasons (length of arrangements, rental of 0-bedroom dwelling, etc.).

B. Effective Date

In the proposed rule, EPA and HUD requested comment on the issue of extending the effective date for the final rule beyond October 28, 1995, in light of the promulgation delays. EPA and HUD noted Congress' inclusion of a 1-year window between the statutory promulgation deadline and the statutorily mandated effective deadline. EPA and HUD received comments in support of and in opposition to an extension.

Commenters opposed to delaying the effective date generally argued that any delay in implementation would increase the number of preventable exposures to lead-based paint hazards. According to these commenters, given the importance of educating consumers about their options for reducing lead hazards, the positive effects of early implementation outweigh the practical difficulties.

While agreeing that this rule addresses an important consumer

protection and empowerment goal, EPA and HUD believe that the rule's effective implementation requires an informed and prepared general public and regulated community. EPA and HUD believe that a phase-in period is necessary to provide adequate time for the real estate industry, private lessors, and independent housing sellers and lessors to become familiar with the rule requirements and to set up procedures for compliance.

Sellers and lessors who own more than four residential dwellings will have 6 months from the final rule's promulgation to implement full disclosure during sales and leasing transactions. This phase-in schedule ensures that all such property owners, sellers, lessors, and agents will have adequate notice of the new requirements before they take effect. Believing that property owners with four or fewer dwellings are more likely to be non-professional sellers and lessors, EPA and HUD are providing a 9-month phase-in period for such owners. EPA and HUD encourage all sellers and lessors to begin voluntary disclosure in advance of their relevant effective date.

EPA and HUD also received comments recommending delaying the effective date until after EPA issues its standards for lead hazards in paint, dust, and soil. These commenters stated that the regulated community would be unable to disclose adequately the presence of lead-based paint and lead-based paint hazards in the absence of Federal standards.

EPA and HUD do not believe that this rule requires Federal lead hazard standards to be effective. In section 1018, Congress mandated that sellers and lessors disclose not just lead-based paint hazards but also the presence of lead-based paint, a far more inclusive mandate (since not all lead-based paint is necessarily a hazard).

Further, EPA and HUD expect that records will likely provide purchasers and lessees with information on lead-based paint and, where they exist, lead-based paint hazards. Accordingly, if records pertaining to lead-based paint are fully disclosed, disclosure of lead-based paint hazards should also be accomplished.

The statute and now this rule provide a clear definition for the levels of lead in paint that constitute lead-based paint. The statute also provides a qualitative definition of lead-based paint hazard, including certain exposures to lead-based paint that is peeling or chipping; lead-based paint that is on friction, impact, or chewable surfaces; and lead-contaminated dust and soil.

EPA and HUD have augmented these definitions by providing guidance on identifying lead hazards in paint, dust, and soil (60 FR 47248).

Regarding the need for guidance to help prospective purchasers and lessees with the interpretation of disclosed information, EPA and HUD believe that the statutory definition of ''lead-based paint hazard,'' combined with EPA's lead hazard guidance and the HUD Guidelines, provides sellers, purchasers, lessors, and lessees with valuable information for interpreting any disclosed information.

Some commenters have also recommended delaying the effective date of the final rule until after the activation of the Federal standards for training and certifying lead workers, being developed under section 402 of TSCA. After considering the comments and reexamining the statute, EPA and HUD have determined that such a delay is unnecessary. EPA and HUD believe that the HUD Guidelines will provide adequate interim guidance for the evaluation and management of lead-based paint hazards in target housing, prior to the release of the section 402 training and certification standards.

C. Definitions

EPA and HUD received comments on many of the proposed definitions. Below is a brief discussion of the significant definitions being promulgated under this final rule.

1. *Agent* means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.

EPA and HUD initially defined ''agent'' to be ''any party who enters into a contract with a seller or lessor to represent the seller or lessor for the purpose of selling or leasing target housing.'' Several commenters stated that the language in this definition was needlessly vague. Listing agents typically enter into a contract with the seller and represent the seller. ''Buyer'' agents, however, often enter into a contractual relationship with a seller or the seller's agent but may represent both the seller and the purchaser in the real estate transaction. EPA and HUD have revised this definition so that any party entering into a contractual relationship directly with the seller or lessor (or indirectly with a representative of the seller or lessor) for the purpose of selling or leasing the target housing, is an ''agent'' for the purposes of this rule. As a consequence, listing agents, selling agents, and buyer agents (if paid by the seller or through a cooperative brokerage agreement with the listing agent), are ''agents'' and are responsible for ensuring compliance under the rule. Since section 1018 refers only to agents having entered into a contract with the seller or lessor, buyer's agents paid entirely by the purchaser are not considered ''agents'' under this rule.

2. *Available* means in the seller's or lessor's possession or reasonably obtainable by the seller or lessor at the time of the disclosure.

Section 1018(a)(1) requires that sellers and lessors provide the purchasers and lessees with ''any lead hazard evaluation reports available to the seller or lessor.'' EPA and HUD interpret available lead hazard evaluation reports to mean records and reports that pertain to lead-based paint and/or lead-based paint hazards in the target housing and that are in the possession of the seller or lessor or that are reasonably obtainable by the seller or lessor at the time of the disclosure.

EPA and HUD expect that most sellers and lessors will retain copies of relevant information in their possession along with other important housing files (title, outstanding leases, etc.). In some cases, however, the seller or lessor may no longer have possession of the records but may have reasonable access to the information. Examples of ''reasonably obtainable'' records include records retained by a separate or outside entity on behalf of the seller or lessor and copies of reports retained by the original inspector or risk assessor that would be available to the owner in cases where the original records were destroyed or lost. The term ''reasonably obtainable'' is not intended to impose an obligation on the seller or lessor to conduct further evaluation of the housing.

3. *Common area* means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

This definition is unchanged from the proposed rule. The term ''common area'' will be used in other TSCA Title IV regulations, some of which may require a broader interpretation of common area. The final rule provides one broadly interpreted term applicable under all of the TSCA rules, to avoid the confusion of multiple rule-specific definitions. Though several commenters recommended minor changes to adjust the scope of the definition, EPA and HUD believe that other regulatory

provisions adequately clarify the relevant scope of the term ''common area'' as it relates to target housing.

4. *Foreclosure* means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

EPA and HUD added this definition in response to requests that the final rule include a regulatory definition of the term. EPA and HUD believe that this definition will help property owners determine the applicability of the foreclosure exemption to their transactions. Recognizing that different jurisdictions may have differing interpretations of what constitutes ''foreclosure,'' EPA and HUD have developed a general definition that provides flexibility to work within established local laws and customs.

5. *Housing for the elderly* means retirement communities or similar types of housing specifically designed for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

In response to public comments, EPA and HUD have added a definition for this term to the regulatory text. This definition is consistent with the definition used by HUD's Supportive Housing for the Elderly Program (See 24 CFR 277.1(f)). While some commenters recommended the use of a ''55 years or older'' standard (as used to define ''older person'' in the Fair Housing Act), HUD believes that the current definition is more consistent with HUD's other programs for the elderly.

6. *Lead-based paint* means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

This term has been modified slightly from the language provided in Title X and TSCA to retain consistency with the many HUD programs already using the levels defined under section 302(c) of the Lead-Based Paint Poisoning Prevention Act.

7. *Lead-based paint free housing* means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

EPA and HUD have added this definition in support of the provision of the rule that allows rental transactions in ''lead-based paint free'' rental housing to be excluded from the section 1018 requirements. EPA and HUD provide further discussion of this provision in unit IV.A.2. of this preamble.

8. *Lead-based paint hazard* means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

This term, defined in section 1004 of Title X, is unchanged from the proposed rule. EPA has released guidance on identifying lead hazards in paint, dust, and soil (60 FR 47248) and is currently developing Federal standards. In addition, HUD has released comprehensive guidelines for evaluation and control of lead-based paint hazards in housing (Ref. 7).

9. *Lessee* means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

EPA and HUD received limited comments on this definition and have made minor revisions to the language of the definition to clarify its applicability to trusts and subleases.

10. *Lessor* means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

EPA and HUD received limited comments on this definition and have made minor revisions to the language of the definition to clarify its applicability to trusts and subleases.

11. *Owner* means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner is considered the mortgagor.

EPA and HUD have revised the definition provided in the proposed rule to clarify its applicability to trusts and to clarify one situation in which mortgage lenders (mortgagees), rather than borrowers (mortgagors), hold title and are therefore owners.

12. *Purchaser* means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

EPA and HUD received limited comments on this definition and have made minor revisions to the language of the definition to clarify its applicability to trusts.

13. *Risk assessment* means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including: (1) Information gathering regarding the age and history of the housing and occupancy by children under age 6; (2) visual inspection; (3) limited wipe sampling or other environmental sampling techniques; (4) other activity as may be appropriate; and (5) provision of a report explaining the results of the investigation.

This definition, provided in section 1004 of Title X, is unchanged from the proposed rule. Under section 402 of TSCA, EPA will promulgate separate regulations regarding the conduct of such activities, as well as a program for training and certifying workers engaged in these activities. Under section 404 of TSCA, these regulations will also include a process for authorizing States to implement their own training and certification programs.

14. *Seller* means any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term ''seller'' also includes: (1) An entity that transfers shares in a cooperatively owned project, in return for consideration and (2) an entity that transfers its interest in a leasehold in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.

EPA and HUD received limited comments on this definition and have made minor revisions to the language of the definition to clarify its applicability to trusts.

15. *Target housing* means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

This definition was provided by section 1004 of Title X and is unchanged. Where commenters provided recommendations for revising or clarifying the definition, EPA and HUD have addressed those comments within the scope and applicability section of the final rule. Commenters also noted that the proposed rule

misstated the statutory definition by limiting the 0-bedroom dwelling exception to housing where no children under 6 reside or are expected to reside. EPA and HUD have modified the definition to reflect the statutory language.

16. *0-bedroom dwelling* means any residential dwelling in which the living area is not separated from the sleeping area. Such term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

In the preamble of the proposed rule, EPA and HUD clarified their interpretation of this term by identifying efficiencies, studio apartments, dormitory housing, military barracks, and other such housing in which the living area is unseparated from the sleeping area as types of dwellings that are not covered under the rule. EPA and HUD have added rentals of individual rooms in a residential dwelling to the types of transactions that would involve a 0-bedroom dwelling. All of these clarifications are included in the regulatory definition in the final rule's regulatory text.

D. Changes to the Disclosure Requirements

Section 1018(a)(1)(B) requires that ''before the purchaser or lessee is obligated under any contract to purchase or lease the housing, . . .the seller or lessor shall. . .disclose to the purchaser or lessee the presence of any known lead-based paint or any lead-based paint hazards, in such housing, and provide any lead hazard evaluation report available to the seller or lessor.''

EPA and HUD received more than 150 comments on their proposed requirements for such information disclosure, addressing both the proposed disclosure process and the issue of what information should be covered. In particular, recurring themes among the comments included: (1) The need for greater specificity regarding the necessary timing for disclosure activities; (2) concerns over which activities should constitute disclosure; and (3) what kinds of information should be disclosed under this rule. The following is a brief discussion of these key points and a summary of the regulatory requirements.

1. *Timing of disclosure events.* In addressing the need for greater clarity regarding the timing of disclosure activities, EPA and HUD have attempted to maximize the parties' flexibility in incorporating these requirements during negotiations. EPA and HUD believe that this flexibility is important given the many types of transactions covered by these provisions and the existence of distinct local requirements and customs. Therefore, the final rule identifies only the latest point at which full disclosure must occur. Using the statute as a guide, EPA and HUD have identified this point as before the purchaser or lessee becomes obligated under any contract to purchase or lease the housing.

Some commenters raised the concern, however, that without additional clarification regarding how and when information must be disclosed, the final rule could cause unnecessary confusion regarding how the requirements will work in actual practice. After reviewing the framework set out in the proposed rule, EPA and HUD have revised and clarified the requirements in a number of ways. First, the final rule contains numerous minor changes to the wording of definitions and requirements to clarify that the rule does not require mass disclosure to all prospective purchasers, regardless of their degree of interest. Second, the rule requires that certain disclosure and acknowledgment language become part of the final sale or lease contract. In making these changes, EPA and HUD have considered the typical negotiation process involved in leasing and sales transactions.

During sales transactions, for example, purchasers often take the first step toward formalizing a sales agreement by providing a written offer to purchase the housing. If accepted and signed by the seller, this offer typically becomes the sales contract. The statute's mandate that disclosure and notification take place before the purchaser is obligated imposes a requirement on the seller to disclose information before accepting the purchaser's offer, thereby allowing the purchaser an opportunity to review the information and to possibly amend the offer. If a seller were to accept a purchaser's offer and obligate the purchaser before disclosing known information, such a seller would be in violation of Title X and this rule. Of course, the parties can always agree to conduct the disclosure activities in advance of contract discussions, provided that the final contract includes the signed and dated disclosure elements mandated by this rule.

In leasing transactions, the disclosure process is even simpler. While the parties are free to negotiate when the disclosure process occurs, lessors must provide the information and complete the disclosure portions of the lease (or attachment) before the lessee becomes obligated under a contract to lease the housing. By requiring that the disclosure information be included in or as an attachment to the lease, EPA and HUD seek to ensure that the disclosure process automatically occurs during lease negotiations.

The requirement that the contract or an attachment include disclosure language fulfills two additional functions. First, the process of completing and signing these sections ensures that all parties are aware of their rights and obligations and are able to confirm that the appropriate actions have already occurred. Second, this disclosure language provides a clear record of compliance.

While sections 1018(a)(2) and (3) mandate lead warning language for all sales transactions, the inclusion of such language as an attachment to leases is not specifically mandated by Title X. EPA and HUD, however, believe that it is necessary to include the warning language in leases as well. Further, the completion and retention of disclosure and acknowledgment language is a necessary component of any effective, enforceable disclosure requirement for leasing transactions.

2. *Components of full disclosure.* EPA and HUD consider full disclosure to have occurred when the seller or lessor has provided the following items to the purchaser or lessee.

a. *A lead hazard information pamphlet approved by EPA.* As required by TSCA section 406, EPA has developed a lead hazard information pamphlet, entitled *Protect Your Family from Lead in Your Home,* and has made it available through government channels and private sources. EPA issued the final notice of the pamphlet's availability in the Federal Register of August 1, 1995 (60 FR 39167). In addition to providing detailed information on how to obtain copies (individually, in bulk, and as camera-ready reprints), the notice describes the process of developing the pamphlet, including considerable public review and comment.

The statute also allows States to develop their own lead hazard information pamphlets under section 406, provided that they obtain authorization and approval from EPA. Several States that already have disclosure provisions have expressed their desire to seek approval to use their own pamphlets in lieu of the Federal pamphlet. EPA and HUD encourage States interested in developing their own materials to seek approval of their pamphlets for distribution under the section 1018 regulations.

b. *Notice of the presence of known lead-based paint and/or lead-based paint hazards.* Sellers and lessors must disclose, based on their actual knowledge, whether the target housing

is known to contain lead-based paint and/or lead-based paint hazards. EPA and HUD received many comments on the types of information under consideration for disclosure under these requirements. Many of the commenters expressed concern that the proposed rule was too vague about what constituted ''known information.'' For example, did EPA and HUD intend for the disclosure requirements to distinguish between information already in the possession of the seller or lessor and information that could be obtained only by some further investigation or inference? Several commenters described this distinction in terms of actual knowledge (knowledge stemming from existing facts and information) versus constructive knowledge (knowledge that could be inferred or obtained by further inquiry). An expectation that the property owners meet a constructive standard for knowledge could create an implied testing requirement.

While the Agencies hope to encourage lead hazard evaluation and reduction efforts through all of their regulatory and non-regulatory programs, neither Agency believes that Congress intended to mandate additional lead hazard evaluation activities in private housing. EPA and HUD believe that Congress intended to limit the disclosure obligation to actual knowledge. The final rule, therefore, embraces an actual knowledge standard as well. With this clear standard, property owners and their agents will be able to take affirmative steps to comply fully with the rule and be confident that they have met the requirements of the law and its implementing regulations. EPA and HUD believe that such finality is a necessary part of this regulation, given the diverse makeup of the regulated community.

c. *Provision of records and reports on lead-based paint and/or lead-based paint hazards available to the seller or lessor.* As mandated by section 1018(a)(1)(B), sellers and lessors must ''provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor.'' EPA and HUD have interpreted ''available evaluation reports'' to mean records and reports that pertain to lead-based paint and/or lead-based paint hazards in the target housing and that are in the possession of the seller or lessor or that are reasonably obtainable by the seller or lessor at the time of the disclosure.

During the proposed rule phase, EPA and HUD requested comment regarding the disclosure of known lead-based paint and/or lead-based paint hazards in other units within target housing. EPA and HUD received both supporting and opposing comments on this requirement. Opponents argued that distinct dwelling units can have very different painting histories, making information on one unit an unreliable indicator of other units. Proponents argued that regardless of differences that may exist, the painting histories of different units in a building are usually similar enough to provide valuable information for individuals considering whether lead hazard exposure precautions are prudent.

EPA and HUD believe that information and reports on other units in the target housing are directly relevant to prospective purchasers and lessees if the information stems from evaluation or reduction efforts in the target housing as a whole. In large multifamily properties, evaluations do not necessarily examine every dwelling unit in the housing. Rather, inspectors or risk assessors examine a representative sample of the dwelling units and apply the findings to the housing as a whole. While such evaluations might not include data on a specific unit, the fact that the evaluation was designed to provide information on the housing as a whole makes the report's findings relevant.

The proposed rule also requested comment on whether sellers and lessors should have to disclose information on past elevated blood-lead levels in other occupants of target housing. Based on the comments and further deliberation, EPA and HUD decided against requiring disclosure of medical information for several reasons. As commenters pointed out, lead exposure, elevated blood-lead levels, or lead poisoning may come from sources other than lead-based paint hazards in the housing. Where elevated blood-lead levels were determined to stem from lead-based paint hazards in the housing, the follow-up environmental assessment activities in the affected person's housing will likely generate more germane records regarding lead-based paint exposure hazards in the housing.

Commenters also questioned whether disclosure requires the actual transfer of all documentation from the seller or lessor, or whether simply making the information accessible for the purchaser's or lessee's evaluation is adequate. Based on the mandate in section 1018(a)(1)(B), EPA and HUD believe that Congress clearly intended for purchasers and lessees to receive their own copies of the records and reports available to the seller or lessor. Therefore, the seller or lessor remains obligated to provide copies of all relevant materials to the purchaser or lessee.

d. *Completed Lead Warning Statement and acknowledgment language, attached to the sales or lease contract.* This information, set out in 24 CFR 35.92 and 40 CFR 745.113, documents the disclosure and acknowledgment process, and serves as the primary confirmation tool for all parties in ensuring full compliance with the regulatory requirements. This information is especially important in cases where purchasers or lessees conduct contract negotiations through their own representatives (requiring sellers, lessors, or their agents to provide documents to the representative instead of the purchaser or lessee). In such cases, the attachment provides a record that sellers, lessors, and agents can use to confirm that purchasers and lessees have received the necessary disclosure materials.

The proposed rule required the use of disclosure forms as attachments to each contract to purchase or lease target housing. These forms would have served as the key mechanisms for documenting compliance with the requirements. EPA and HUD carefully considered the merits of each element, limiting the rule to information necessary for demonstrating full compliance.

The final rule includes some changes to the information that must be included in the contract. Where the proposed rule required that sellers and lessors use federally developed disclosure forms, the final rule provides greater flexibility for negotiating parties to develop their own language, provided that it contains the mandated elements. EPA and HUD eliminated the requirement that parties use a single form. Instead, the final rule mandates only the information elements that must be included without mandating specific formats or forms.

This flexibility is especially important to States that have developed, or are considering developing, their own disclosure requirements. During the comment period, several States requested that the final rule provide flexibility for States to merge their forms with the Federal form, eliminating unnecessary duplication. Under the final rule, States and jurisdictions will be able to make changes to the format as necessary to retain consistency with State and local laws and customs.

The following is a discussion of the required elements.

(i) *Seller, agent, and purchaser requirements.* The final rule requires that each contract to sell target housing include an attachment containing specific disclosure and acknowledgment

elements, in the language of the contract (e.g., English, Spanish). The elements required are described below:

(A) The first required element is the Lead Warning Statement, consisting of the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Congress mandated this language in section 1018(a)(3) of Title X. While several commenters recommended providing simpler language, EPA and HUD are constrained by the mandate and have retained the statement as proposed.

(B) The second required element is a statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller must also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist in the housing, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces. The statement must also list all records and reports pertaining to lead-based paint and/or lead-based paint hazards that are available to the seller and that have been provided to the purchaser. If no such records or reports are available to the seller, the statement must so indicate.

(C) The third element is a statement affirming that the purchaser has received the information noted in paragraph (B) above and the lead hazard information pamphlet required under section 406 of TSCA (15 U.S.C. 2696). The pamphlet described above may be the Federal pamphlet entitled *Protect Your Family from Lead in Your Home* or a State-developed pamphlet that has been approved by EPA.

(D) The fourth required element is a statement that the purchaser has received a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards (unless the parties have mutually agreed to a different period of time), before becoming obligated under the contract to purchase the housing. Alternatively, a purchaser who chooses to waive the risk assessment or inspection opportunity must so indicate in writing.

(E) The fifth required element is a statement by any agent involved in the transaction that the agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and that the agent is aware of his/her duty to ensure compliance with the requirements of this rule.

(F) The sixth required element is the signatures of the seller(s), agent(s), and purchaser(s), certifying the accuracy of their statements on the attachment, along with their dates of signature. These signatures document the acceptance by the parties of the information they have provided on the attachment as a whole and alert the various parties to their respective roles and responsibilities.

(ii) *Lessor, agent, and lessee requirements.* Each contract to lease target housing must include the following elements, as an attachment or within the contract, in the language of the contract (e.g., English, Spanish).

(A) The first required element is a Lead Warning Statement with the following language:

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

EPA and HUD received a considerable amount of comment regarding the language of the Lead Warning Statement used in the leasing disclosure attachment. EPA and HUD have developed a modified Lead Warning Statement for leasing transactions that uses simpler words and syntax than the purchase warning statement required by Title X.

(B) The second required element is a statement disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist; the location of the lead-based paint and/or lead-based paint hazards; and the condition of the painted surfaces. The statement must also list any records or reports pertaining to lead-based paint and/or lead-based paint hazards that are available to the lessor and that have been provided to the lessee. If no such records or reports are available to the lessor, the statement must so indicate.

(C) The third required element is a statement affirming that the lessee received the information noted in paragraph (B) above and the lead hazard information pamphlet required under section 406 of TSCA (15 U.S.C. 2686).

(D) The fourth required element is a statement by any agent involved in the transaction that the agent has informed the lessor of the lessor's obligations under the law and that the agent is aware of his/her duty to ensure compliance with the requirements of this rule.

(E) The fifth required element is the signatures of the lessor(s), agent(s), and lessee(s), certifying the accuracy of their statements, along with their dates of signature. These signatures document the acceptance by the parties of the information they have provided as a whole and alert the various parties to the roles and responsibilities of each party.

3. *Sample disclosure attachments.* Recognizing that many parties may prefer having access to a sample format, EPA and HUD have developed sample disclosure formats for sales and leasing contracts for public reference. These samples are not included in the regulatory text itself. Nothing in the rule requires the use of these specific formats if a seller or lessor wishes to develop a separate format that includes all of the required elements.

(Sample Disclosure Format for Target Housing Sales)

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i)—— Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

_____

(ii)——Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i)——Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

_____

(ii)—— Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

(c)——Purchaser has received copies of all information listed above.

(d)——Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home*.

(e)——Purchaser has (check (i) or (ii) below):

(i)—— received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii)—— waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

(f)——Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____	_____	_____	_____
Seller	Date	Seller	Date
_____	_____	_____	_____
Purchaser	Date	Purchaser	Date
_____	_____	_____	_____
Agent	Date	Agent	Date

(Sample Disclosure Format for Target Housing Rentals and Leases)

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (Check (i) or (ii) below):

(i)—— Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

_____

(ii)——Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (Check (i) or (ii) below):

(i)—— Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

_____

(ii)——Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c)——Lessee has received copies of all information listed above.

(d)——Lessee has received the pamphlet *Protect Your Family from Lead in Your Home.*

Agent's Acknowledgment (initial)

(e)——— Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____	_____	_____	_____
Lessor	Date	Lessor	Date
_____	_____	_____	_____
Lessee	Date	Lessee	Date
_____	_____	_____	_____
Agent	Date	Agent	Date

4. *Recordkeeping requirements.* EPA and HUD have retained the recordkeeping requirements under this rule largely as proposed. The seller and any agent are required to retain a copy of the completed disclosure and acknowledgment contract attachment (discussed below), required under §§ 35.92(a) and 745.113(a), for 3 years from the completion date of the sale. Similarly, the lessor and any agent are required to retain a copy of the completed lease or attachment, required under § 35.92(b) and § 745.113(b) of this rule for 3 years from the commencement of the leasing period. EPA and HUD have determined that a 3-year period is an appropriate amount of time to ensure compliance with the requirements of Title X and to support Federal compliance monitoring efforts. This recordkeeping requirement is not intended to place any limitations on civil suits under Title X or to otherwise affect a lessee's or purchaser's rights under the civil penalty provisions of section 1018(b)(3) of Title X.

EPA and HUD requested comment on whether the rule should include an additional recordkeeping provision requiring that property owners retain all records and reports of lead-based paint and/or lead-based paint hazards in the housing for the length of their ownership. Based on the statute's use of the term ''available'' lead hazard evaluation reports, EPA and HUD have determined that a specific recordkeeping requirement for such reports is beyond the scope of this regulation. EPA and HUD have, however, clarified ''available'' lead hazard evaluation reports to encompass records and reports in the possession of the seller or lessor or reasonably obtainable by the seller or lessor at the time of the disclosure. This approach recognizes that third parties may in some cases play an independent recordkeeping role for the seller or lessor.

While the Agencies do not mandate the retention of these records, EPA and HUD encourage sellers and lessors to retain relevant records in anticipation of future sale or lease. The information provided can help purchasers and occupants take exposure prevention precautions during later ownership or occupancy. The requirement to disclose the presence of known lead-based paint and/or lead-based paint hazards remains even if the seller or lessor is unable to locate the original reports quantifying the data. Section 1018 requires sellers and lessors to both (1) disclose the presence of known lead-based paint and/or lead-based paint hazards in the housing and (2) provide available written records and reports to the purchaser or lessee. By mandating that both actions occur, Congress recognized the distinction between the two actions, and the fact that the seller or lessor might have actual knowledge of lead-based paint and/or lead-based paint hazards above and beyond that present in available reports.

5. *Failure to fully disclose before ratification of contracts.* As mandated by Title X, the disclosure of information, the provision of the lead hazard information pamphlet, and the purchaser's opportunity to conduct a risk assessment or inspection must occur before the purchaser or lessee becomes obligated under any contract to purchase or lease the dwelling. Section 1018(c) prohibits regulatory provisions that would ''affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan'' and states that nothing in the rule ''shall create a defect in title.'' The disclosure requirements contained in this rule must occur prior to contract ratification and, as such, do not affect the validity of the subsequent contract. Nor does failure to conduct full disclosure before sale or lease affect the validity of the sales or leasing contract itself. Rather, purchasers seeking remedy for the non-disclosure may avail themselves of the civil remedies afforded by section 1018 of Title X.

6. *Opportunity to conduct a risk assessment or inspection.* Section 1018(a) requires that sellers provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before becoming obligated under a purchase contract. The length of time may be shortened or lengthened by mutual agreement. In the proposed rule, EPA and HUD offered several approaches for implementing this provision of section 1018: (1) Establishing Federal standards for the implementation of the evaluation period, providing flexibility for adjustment by mutual consent; (2) limiting the regulatory text to the statutory language, thereby maximizing the discretion of the two parties in negotiating the terms; (3) codifying contract contingency language for use in complying with the final rule; and (4) establishing requirements for providing evaluation opportunities before the preparation of contracts.

Recognizing that home inspections for various hazards and housing defects are common occurrences during housing transactions around the country, EPA and HUD believe that the market can incorporate this requirement into future transactions without detailed regulatory language. The final rule, therefore, steers away from the proposed rule's preferred approach of codifying Federal standards for the performance of the 10-day evaluation period provision.

However, EPA and HUD also recognize that some private sellers may choose to conduct their housing sales without the aid of a trained agent and may lack familiarity with the standard processes for conducting such evaluations in the sales transaction. For such persons, EPA and HUD are providing the following discussion of several likely approaches for implementing this provision.

First, some purchasers may choose to waive the opportunity for a risk assessment or inspection. Purchasers may be especially inclined to waive the opportunity in cases where the seller provides significant amounts of relevant information on the property during the disclosure process, or in cases where no children are expected to reside in the housing. If the purchaser chooses to waive the evaluation opportunity, the purchaser is still obligated to acknowledge receipt of the evaluation opportunity on the attachment, documenting this voluntary decision to waive the opportunity.

EPA and HUD expect that in most cases where the purchaser chooses to exercise his or her evaluation opportunity, the parties will develop and incorporate into the contract mutually agreeable terms for the conduct and completion of the evaluation opportunity. The final rule provides sellers and purchasers with broad flexibility to develop terms for performing the risk assessment or inspection.

As many commenters noted, home inspections are already common aspects of housing transactions. Frequently, these inspections are incorporated into the sales contracts as contingency clauses, providing mutual agreement on the timing, terms, and conduct of the inspection. Common terms addressed in these clauses include: (i) The starting and ending day of the inspection period; (ii) any contingencies and conditions tied to the contract regarding the inspection period; (iii) the process for removing any contingency or condition following the completion of the inspection; and (iv) the disposition of any earnest money provided by the purchaser before the opportunity to inspect. This general framework is one possible approach that parties can consider when developing mutually

agreeable terms for the evaluation period required by section 1018(a) of Title X.

While most commenters stressed the importance of providing flexibility for the parties to develop mutually agreeable evaluation terms, many also recommended the inclusion of sample language as a reference. For the purpose of providing guidance on creating contract language, EPA and HUD have included the following sample contract contingency clause for optional use. This language is offered as a sample only, and nothing in this rule imposes a requirement on either party to accept or reject this language in the current or modified form.

Sample Contract Contingency Language

This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at the Purchaser's expense until 9 p.m. on the tenth calendar-day after ratification [*Insert date 10 days after contract ratification or a date mutually agreed upon*]. (Intact lead-based paint that is in good condition is not necessarily a hazard. See the EPA pamphlet *Protect Your Family From Lead in Your Home* for more information.) This contingency will terminate at the above predetermined deadline unless the Purchaser (or Purchaser's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within ——— days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs, or if the Seller makes a counter-offer, the Purchaser shall have ——— days to respond to the counter-offer or remove this contingency and take the property in ''as is'' condition or this contract shall become void. The Purchaser may remove this contingency at any time without cause.

E. Agent Responsibilities

Title X specifically addresses the responsibilities of agents, requiring them to ensure compliance with the provisions of the law. Agents fulfill this requirement by informing sellers or lessors of their obligations and by making sure that these activities are completed either by the seller or lessor or by the agent personally. Accordingly, 24 CFR 35.94(b) and 40 CFR 745.107(c) identify the seller's affirmative duty to disclose to the agent any known lead-based paint and/or lead-based paint hazards on the property. Provided that the agent has actually informed the seller or lessor of his/her obligation, the final rule notes that the agent will not be responsible for information withheld from the agent by the seller or lessor.

V. Non-Compliance and Enforcement

EPA and HUD received considerable comment on the enforcement provisions discussed in the statute and the proposed rule. Many commenters requested more guidance regarding the Agencies' plans for enforcement of the provisions, as well as assurances that the Agencies recognize the importance of active education and outreach to the regulated community. As all enforcement authority for EPA and HUD derives directly from the authorizing statutory language, both the proposed rule and the final rule contain enforcement language that is essentially the same as language provided in Title X and TSCA. The following is a discussion of the general enforcement authority provided by Congress, along with some discussion of the process that EPA and HUD will use in developing a sensible, effective enforcement approach.

A. HUD Authority

Section 1018(b)(1) of Title X authorizes HUD to impose civil monetary penalties on any person who knowingly violates section 1018. This authority applies to violations of this final rule as well. HUD can impose penalties under section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545). These penalties may be up to $10,000 for each violation. In addition, section 1018(b)(2) of Title X authorizes the Secretary to ''take such lawful action as may be necessary to enjoin any violation'' of the law's provisions.

B. EPA Authority

1. *Civil.* Section 1018(b)(5) of Title X provides that failure or refusal to comply with section 1018 or its implementing regulations is a violation of TSCA section 409. Violations of TSCA section 409 are subject to TSCA section 16 penalties. Thus, a violator of section 1018 can be subject to the penalty provisions under TSCA section 16 of up to $10,000 for each violation.

2. *Criminal.* TSCA section 16(b) provides that any person who knowingly or willfully violates section 409 (and thus section 1018) could, in addition to or instead of any civil penalty, be subject, upon conviction, to a fine of not more than $25,000 for each day of violation or to imprisonment for not more than 1 year, or both. For the purposes of enforcement under section 1018, Congress has modified the application of TSCA section 16, limiting the fine to $10,000 ''for each violation.''

C. Enforcement Responses

Because the enforcement provisions of section 1018 are clearly set forth in the statute, the final rule retains largely unchanged the discussion of the enforcement authority.

However, it is EPA's and HUD's intent that outreach and compliance assistance

will be a major component of the section 1018 compliance program so that individuals are fully informed of the new requirements and their obligations. EPA and HUD also intend to bring clarity and predictability to the enforcement process for section 1018, in acknowledgment of the large and diverse population affected by this rule. Concurrent with this rule's release, EPA will issue a short ''Statement of Approach'' as it relates to ensuring compliance with the requirements of section 1018, for the information of the general public. This informational document will discuss the Agency's approach to the section 1018 compliance assurance program. EPA is also developing a policy for use by EPA enforcement personnel to achieve a common sense result between a particular violation of section 1018 and a particular enforcement response. This policy includes, but is not limited to, issuing notices of warning (without penalties) as appropriate to let people know that they are out of compliance and to give them an opportunity to come into compliance, while maintaining provisions that will ensure that willful and repeat violators are appropriately penalized. This result is reached in the context of an ''Enforcement Response Policy'' (ERP), which EPA is developing separately for this rule.

Regarding HUD enforcement actions, HUD's civil money penalty procedures are set out in 24 CFR part 30. These procedures include notices of intent to request civil money penalties, civil money penalty panels, administrative hearings and appeals, judicial review, and collection of penalties. A civil money penalty panel develops guidelines to determine the appropriate penalty for a violation of section 1018. These guidelines include the following factors: the gravity of the offense, awareness of procedures, any history of prior offenses, the ability to pay the penalty, the injury to the public, any benefits received by the violator, any potential benefits to other persons, deterrence of future violators, the violator's culpability, and such other matters as justice may require.

D. Civil Liability--Direct Compensation

In addition to the EPA and HUD enforcement authority for the provisions of this final rule, section 1018(b)(3) of Title X states that ''[A]ny person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.'' This provision allows the purchaser or lessee to seek direct compensation for any damages incurred based on the seller's or lessor's noncompliance. Section 1018(b)(4) authorizes the court to award court costs, reasonable attorney fees, and expert witness fees to a prevailing plaintiff.

E. Validity of Contracts and Liens

Section 1018(c) provides that nothing in section 1018 (or its implementing rules) ''shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan. . . .'' It also provides that nothing in section 1018 (or its implementing rules) shall ''create a defect in title.''

EPA and HUD have looked at section 1018(c) in the context of other section 1018 provisions, which outline specific clauses that must be attached to contracts for the purchase and sale of target housing and specific procedural protections that must be given to the purchaser or lessee.

The provisions of section 1018 cannot void or nullify the contract after ratification and cannot void any transfer of real estate, even if it can be proven that the seller or lessor violated section 1018 provisions. In such circumstances, the purchaser or lessee is limited to the remedies provided in section 1018. Of course, traditional causes of action under State law would still exist, and possibly could be applied to some section 1018 violations. Also, violations of section 1018 could be subject to civil and criminal penalties administered by EPA and HUD under section 1018(b).

VI. Federal Effect on State and Local Disclosure Requirements

Several commenters noted that some States and municipalities already have requirements for the disclosure of information on lead-based paint in housing. In developing the Federal disclosure requirements, several key questions have been raised regarding such programs: (1) Can States obtain authorization to administer and enforce their programs in lieu of the Federal program? and (2) What effect do the Federal requirements have on the ability of States to run their own programs?

EPA and HUD have determined that Title X does not provide authority to delegate the administration and enforcement of these section 1018 requirements to State programs. Where such authority to authorize State programs was anticipated by Congress (as in TSCA section 402), Congress provided specific authority.

Where possible, EPA and HUD have developed these requirements to make it possible for State and Federal requirements to complement each other. For example, EPA and HUD had State programs in mind when adding flexibility in the development of disclosure and acknowledgment attachments.

Finally, nothing in this rule is intended to relieve a seller, lessor, or agent from any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing notice or disclosure of known lead-based paint and/or lead-based paint hazards.

VII. Summary of Regulatory Impact Analysis

EPA and HUD have prepared a Regulatory Impact Analysis (RIA) that examines the potential costs, benefits, and impacts of regulations for the disclosure of known lead-based paint hazards in residential property upon the transfer of the property for sale or rental. The analysis is presented in five sections:

- Background and Framework for Analysis
- Profile of Sectors Affected
- Estimated Costs to Private Parties and Government
- Effect of the Lead-Based Paint Hazard Disclosure Rule for Real Estate Transfers on Small Businesses—Regulatory Flexibility Analysis
- Assessment of Benefits

A. Background and Framework for Analysis

Those parties directly affected by the rule are the seller, lessor, agent, property manager, purchaser, and lessee. The required activities that impose regulatory burden on the affected parties fall into four categories for cost estimation purposes:

1. Start-up costs, which include learning the rule's requirements and establishing compliance procedures;
2. Disclosure costs, which refer to the costs resulting from the actual transfer of information and obtaining needed signatures;
3. Recordkeeping costs, which result principally from the requirement that signed acknowledgment forms must be retained by the provider of the information; and
4. Materials costs, which are linked primarily to the disclosure requirement, as the lead hazard information pamphlet must be purchased or photocopied (acknowledgment forms must also be duplicated). Costs may also be incurred

for filing where a large number of acknowledgment statements or documents for disclosure are generated (e.g., by agents), though such burden was estimated to be quite modest.

The requirements of section 1018 of the Act fall primarily on the seller or lessor of ''target housing,'' which is defined to be any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling. However, if an agent or property manager acts on behalf of the seller or lessor, which EPA and HUD have estimated to be the case in most transfers, responsibilities to ensure compliance fall to such agents or managers as well.

To estimate the impacts of the rule, EPA and HUD sought data pertaining to the number of affected parties in each classification listed above, the frequency with which affected purchase and lease transactions are completed, and the incremental costs, in labor and materials, added to each transaction by the regulations.

B. Profile of Sectors Affected

The larger of the two affected sectors expected to bear the principal effects of the rule falls within Standard Industrial Classification (SIC) code 651, Real Estate Operators and Lessors. EPA estimates there to be 92,000 establishments potentially affected by the rule. Also affected are business establishments falling within SIC code 653, Real Estate Agents and Managers. An additional 92,000 establishments could be affected by the rule in this sector.

Employment data were obtained for the occupations most likely to be involved in transactions subject to the rule. EPA and HUD estimate that 324,000 real estate agents and 243,000 property managers will be affected.

With regard to transaction volume, 2.9 million sales transactions and 9.3 million rental transactions were estimated to occur annually in target housing.

C. Estimated Costs to Private Parties and Government

Table 1 below summarizes the estimated annual costs associated with the rule. The four costs to private parties, or compliance costs, are discussed briefly below. Costs to government represent rule administration activities.

The first private party cost category, start-up costs, represents about one-third of overall annual compliance costs. Factors affecting the magnitude of these costs include the number of employees having to familiarize themselves with the regulations, both initially (employees in the existing workforce) and over time (new entrants to the affected sectors); the time required to learn the activities that must be undertaken in order to comply; and the hourly compensation of affected employees.

As Table 1 shows, disclosure event costs constitute the greatest portion of overall compliance costs. Factors affecting the magnitude of these costs include the frequencies of regulated events; the time involved in performing required activities, such as providing to the prospective purchaser/lessee the required information and obtaining the required signatures; and the hourly compensation of all involved parties. EPA and HUD also took into account the fact that a number of States have similar requirements pertaining to information transfer regarding potential lead hazards in the sale of residential property. Thus, an allowance was made in the burden estimates for transactions occurring in such States to reflect a certain level of current compliance.

Table 1—Summary of Annual Costs of the Disclosure Rule for Residential Property Transfer

Estimated Annual Costs to Private Parties - Sales Transactions	
Start-up Costs*	$25.8 million
Disclosure Event Costs	20.2 million
Recordkeeping Costs	0.6 million
Materials Costs	2.8 million
Total for Sales Transactions:	$49.4 million
Estimated Annual Costs to Private Parties - Rental Transactions	
Start-up Costs*	$ 1.1 million
Disclosure Event Costs	$25.6 million
Recordkeeping Costs	$1.9 million
Materials Costs	$3.4 million
Total for Rental Transactions:	$32.0 million
Total Estimated Annual Costs to Private Parties:	$81.4 million
Costs to Government	
Low Estimate	$2.4 million
High Estimate	$4.3 million
Total Estimated Annual Costs:	
Based on Low Estimate of Government Costs:	$83.8 million
Based on High Estimate of Government Costs:	$85.7 million

* First-year costs annualized at 3 percent rate over 6 years.

Recordkeeping and materials costs account for a relatively modest share of overall annual costs. Factors affecting the magnitude of these costs include the number of affected parties per transaction; the frequency of

transactions, the costs of acquiring/duplicating documents, which include the lead hazard information pamphlet and signed acknowledgment forms; and costs to maintain documents.

Additional, indirect costs resulting from actions taken by consumers in response to the information made available by the rule were not quantified, for reasons detailed in Unit VII.E. of this preamble.

To administer the final regulation, resources will be required to conduct a number of activities, including: inspections; violation case management; establishment and maintenance of cooperative agreements; compliance assistance, development of performance measurement criteria; and management.

D. Effect of the Lead-Based Paint Hazard Disclosure Rule for Real Estate Transfers on Small Businesses--Regulatory Flexibility Analysis

EPA and HUD investigated the potential impacts of the rule on small businesses and have prepared a Regulatory Flexibility Analysis (RFA). Although a large number of small establishments may be affected by the rule, cost impacts were not found to be of sufficient magnitude to cause undue harm to such establishments. The RFA is summarized separately in Unit X.B. of this preamble.

E. Assessment of Benefits

The market imperfection that the rule is intended to correct is the lack of information available to prospective home purchasers and lessees concerning lead-based paint hazards in homes they may be considering for purchase or rent. Under the rule, general information about the risks associated with lead-based paint will be provided through the provision of a brochure. When available, information about the presence of or abatement of lead in the specific unit being considered for purchase or rent must also be disclosed (e.g., information concerning previous testing for the presence of lead-based paint, abatement history, etc.). The failure of the marketplace to provide this information or to provide prospective home purchasers and lessees the opportunity to develop such information means that prospective purchasers and lessees might purchase or lease a property, or make pricing or rental payment decisions regarding properties, without understanding possible lead-related health risks or risk management costs accompanying the transaction.

EPA and HUD expect that this rulemaking will generate benefits by giving prospective home purchasers and lessees access to information that might otherwise have been unavailable (e.g., information pertaining to abatement activities for a specific residence) or that they might have been able to acquire only through their own effort and at some cost. In addition, EPA believes the information will generate health benefits by leading many purchasers and lessees to modify their behavior in a way that will reduce risks from lead-based paint. For example, purchasers could undertake abatement activities subsequent to taking ownership of a dwelling, change household cleaning practices, or request professional assistance when undertaking renovation activities. The rule may also prompt property owners, due to reluctance on the part of prospective purchasers/lessees to select housing containing lead-based paint, to act to reduce lead-related hazards associated with their residential dwellings. Health benefits resulting from such activities are distinguishable from the more direct benefits of the rule, i.e., the value of improved information. Further, in cases where action is taken to remediate a lead-based paint hazard, additional costs would be incurred, and would have to be subtracted from the expected benefits associated with the remediation.

EPA and HUD note that the regulation does not require actions to reduce lead-based paint hazards in residential housing. Thus, the extent to which lead exposure decreases depends upon how transaction participants (i.e., sellers/lessors and prospective purchasers/lessees) value and respond to the additional information.

The RIA details three approaches that are evolving and that can be seen as a starting point in an effort to expand the level of understanding of how benefits from information products can be valued. However, an information base and the associated accepted analytical methods necessary to predict consumer reaction to information products on lead-based paint hazards are not readily available; thus, quantifying the expected benefits of this rule, either in terms of efficiency gains from improved decisionmaking or risk reduction, would be extremely difficult. Given the high level of uncertainty associated with the results from such a quantitative analysis, and given the prescriptive nature of section 1018 of the Act, EPA and HUD believe that the information provided in the qualitative analysis presented in the RIA served to inform decisionmaking.

VIII. Rulemaking Record

A record for this final rule has been established for both EPA and HUD under docket number ''OPPTS-62130.'' The public version of this record for both agencies (which does not contain any information claimed as Confidential Business Information) is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in EPA's TSCA Nonconfidential Information Center (NCIC), Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

The docket contains reference works that EPA and HUD referred to in developing this regulation. In addition, other documents, including the Regulatory Impact Analysis, Information Collection Request, and copies of all comments on the proposed rule, are included in the docket for public review. The draft of the final rule submitted by EPA and HUD to OMB for review prior to the final rule's promulgation will also be contained in the docket.

IX. References

1. Alliance to End Childhood Lead Poisoning, 1991. *Preventing Childhood Lead Poisoning: The First Comprehensive National Conference; Final Report.* Washington, DC.

2. CDC, 1991. U.S. Centers for Disease Control and Prevention, *Preventing Lead Poisoning in Young Children: A Statement by the Centers for Disease Control.* Atlanta, GA.

3. CPSC, 1977. *Notice Reducing Allowable Levels of Lead in Lead-Based Paint.* Federal Register. September 1, 1977: 42 FR 44199.

4. EPA, 1995. U.S. Environmental Protection Agency, *Report on the National Survey of Lead-Based Paint in Housing: Base Report.* Washington, DC: EPA747-R95-003.

5. HUD, 1995. U.S. Department of Housing and Urban Development, Task Force on Lead-Based Paint Hazard Reduction and Financing, *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing: Final Report.* Washington, DC: HUD-1542-LBP.

6. HUD, 1990. *Lead-Based Paint; Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing; Notice.* Federal Register. April 18, 1990: 55 FR 14556.

7. HUD, 1995. Department of Housing and Urban Development, *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.* Washington, DC.

8. Pirkle, 1994. Pirkle, J.L., D.J. Brody, E.W. Gunter, R.A. Kramer, D.C. Paschal,

K.M. Flegal, T.D. Matte, *The Decline in Blood Lead Levels in the United States.* Journal of the American Medical Association, 272(4): 284-291.

X. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a ''significant regulatory action'' because of potential novel legal or policy issues arising out of the new legal mandates this action implements. This action was submitted to OMB for review, and any comments or changes made during that review have been documented in the public record.

In addition, EPA and HUD have prepared a Regulatory Impact Analysis (RIA) in conjunction with their lead information disclosure rule for real estate transfers. EPA and HUD find that the rule will not have an effect on the economy of $100 million or more, will not result in major increases in costs or prices, and is not anticipated to have significant adverse effects on competition, employment, investment, or productivity in the relevant sectors.

EPA and HUD estimate the overall costs to affected entities to be $81.4 million and costs to government to range from $2.4 to $4.3 million. These estimates include costs for rule familiarization, information disclosure and obtaining required signatures, recordkeeping, materials costs, and government administration costs. EPA and HUD estimate that the provisions of the rule will add about $2.00 to $6.00 to the cost of each transaction.

A copy of the RIA is available in the TSCA Public Docket Office for review and public comment. For information on the public docket, see Unit VIII. of this preamble, entitled Rulemaking Record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires Federal agencies to consider whether a regulatory action will have an adverse economic impact on small entities. Section 605(b) requires the agencies to either certify that the regulatory action will not have a significant economic impact on a substantial number of small entities, or prepare a Regulatory Flexibility Analysis. Under the EPA policy that implements the Regulatory Flexibility Act, EPA performs a Regulatory Flexibility Analysis whenever a regulatory action is anticipated to have any economic impact on any small entities, and will also seek to involve these small entities in the development of the regulatory action to the extent possible. As such, in an effort to identify and characterize the rule's effects on small business, EPA and HUD have prepared a Regulatory Flexibility Analysis. This assessment has been included as part of the RIA and is summarized below.

In preparing the RFA, EPA and HUD first developed an establishment profile for each major sector (SIC 651 and SIC 653). This profile indicated that approximately 75 percent of all establishments in SIC 651 (Real Estate Operators and Lessors) and approximately 73 percent of all establishments in SIC 653 (Real Estate Agents and Managers) fell within the 1 to 4 employee size class. These proportions increased to 90 percent and 87 percent, respectively, when employee size class 1 to 9 was examined.

To measure the cost impacts of the rule on these small establishments, representative or model establishments were designed. These model establishments corresponded to typical establishments in each affected sector, with respect to number of employees and annual transaction volume. Since transaction activity was reported to vary widely, a range of transaction volume was estimated for each establishment type.

For each model establishment, annual regulatory costs were then calculated and compared to annual labor and overhead costs. Ratios were computed for both high and low estimates of the range of transaction activity. In the case of a real estate sales organization, regulatory costs were found to represent from 0.20 to 0.42 percent of labor and overhead costs. In the case of a rental establishment, impacts were slightly higher, ranging from 0.21 to 0.47 percent. An establishment engaged in both activities was projected to sustain impacts of 0.28 to 0.63 percent.

Thus, while a large number of small establishments will be potentially affected by the rule, cost impacts were not found to be of sufficient magnitude to cause undue harm to such establishments. Consequently, no regulatory alternatives are being proposed in connection with small business impacts.

C. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An Information Collection Request (ICR) document has been prepared by EPA (EPA ICR No. 1710.02) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, Environmental Protection Agency (2136), 401 M St., SW., Washington, DC 20460 or by calling (202) 260-2740. The information requirements are not effective until OMB approves them.

The information collection requirements of this rule apply to sellers, lessors, and agents of target housing. Before selling or leasing target housing, the following information collection activities must occur: (1) Disclosure of known lead-based paint and/or lead-based paint hazards; (2) provision of any available records and reports pertaining to lead-based paint in the housing; (3) provision of a federally approved lead hazard information pamphlet; (4) completion and subsequent retention of disclosure and acknowledgment language for 3 years, and (5) provision of a 10-day evaluation opportunity to purchasers before obligation under purchase contracts (this time period can be adjusted or waived by mutual consent).

These requirements will help to: (1) Ensure that purchasers and renters of older housing make informed housing and maintenance decisions before they become obligated under purchase or lease contracts; (2) ensure that all participants in target housing sales and leasing transactions fully understand their rights and obligations under section 1018 and the implementing regulations; (3) document the completion of all disclosure activities by the responsible parties; and (4) provide a record of compliance for use by EPA and HUD enforcement officials. Under the authority of section 1018 of Title X, the information collection requirements of this rule are mandatory for all applicable sales and leasing transactions.

The annual costs to private parties to comply with the requirements of the rule are estimated to be $81.4 million, with an associated burden of 7.1 million hours. Annual costs may be broken down into two components: Initialization or start-up costs, estimated to be $26.9 million (annualized at 3 percent over 3 years); and costs for information disclosure and maintenance of records, estimated to be $54.5 million. Annual burden is estimated to be distributed among 35.1 million responses, averaging 12.2 minutes per response. The number of respondents is estimated to be 15.5 million. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal

agency. This 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 respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not 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 listed in 40 CFR part 9 and 48 CFR Chapter 15. Upon OMB approval, EPA will issue a notice in the Federal Register to announce OMB's approval and to make a technical amendment to include a reference to this approval in 40 CFR part 9.

Send comments on the burden estimates and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, OPPE Regulatory Information Division, Environmental Protection Agency (2136), 401 M St., SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence.

D. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19 and 50.20(o)(2) of the HUD regulations, the policies and procedures contained in this final rule relate only to information services and are, therefore, categorically excluded from the requirements of the National Environmental Policy Act.

E. HUD's Regulatory Agenda

This rule was listed as Item No. 1517 in HUD's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424), in accordance with Executive Order 12866 and the Regulatory Flexibility Act, and was requested by and submitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives under section 7(o) of the Department of Housing and Urban Development Act.

F. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA and HUD have assessed the effects of this regulatory action on State, local, and tribal governments, and the private sector. This action is not an ''unfunded mandate'' as defined by that statute and will not result in the expenditure of $100 million or more by any State, local, or tribal government, or by the private sector. Nevertheless, EPA and HUD consulted with several State, local, and tribal governments during the development.

A copy of the RIA is available for public review. For information on the public docket, see Unit VIII. of this preamble, entitled Rulemaking Record.

List of Subjects in 24 CFR Part 35

Environmental protection, Grant programs-housing and community development, Hazardous substances, Lead, Lead poisoning, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead, Recordkeeping and notification requirements.

Dated: February 29, 1996.

Henry Cisneros,

Secretary, Department of Housing and Urban Development.

Dated: February 29, 1996.

Carol M. Browner,

Administrator, Environmental Protection Agency.

Therefore, 24 CFR subtitle A and 40 CFR Chapter I are amended as follows:

24 CFR Subtitle A

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 4821-4846 and 4852d.

2. A new subpart H is added to part 35 to read as follows:

Subpart H—Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

Sec.

35.80 Purpose.
35.82 Scope and applicability.
35.84 Effective dates.
35.86 Definitions.
35.88 Disclosure requirements for sellers and lessors.
35.90 Opportunity to conduct an evaluation.
35.92 Certification and acknowledgment of disclosure.
35.94 Agent responsibilities.
35.96 Enforcement.
35.98 Impact on State and local requirements.

Subpart H—Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

§ 35.80 Purpose.

This subpart implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

§ 35.82 Scope and applicability.

This subpart applies to all transactions to sell or lease target housing, including subleases, with the exception of the following:

(a) Sales of target housing at foreclosure.

(b) Leases of target housing that have been found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program. Until a Federal certification program or federally accredited State certification program is in place within the State, inspectors shall be considered qualified to conduct an inspection for this purpose if they have received certification under any existing State or tribal inspector certification program. The lessor has the option of using the results of additional test(s) by a certified inspector to confirm or refute a prior finding.

(c) Short-term leases of 100 days or less, where no lease renewal or extension can occur.

(d) Renewals of existing leases in target housing in which the lessor has previously disclosed all information required under § 35.88 and where no new information described in § 35.88 has come into the possession of the lessor. For the purposes of this

paragraph, renewal shall include both renegotiation of existing lease terms and/or ratification of a new lease.

§ 35.84 Effective dates.

The requirements in this subpart take effect in the following manner:

(a) For owners of more than four residential dwellings, the requirements shall take effect on September 6, 1996.

(b) For owners of one to four residential dwellings, the requirements shall take effect on December 6, 1996.

§ 35.86 Definitions.

The following definitions apply to this subpart.

The Act means the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d.

Agent means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.

Available means in the possession of or reasonably obtainable by the seller or lessor at the time of the disclosure.

Common area means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

Contract for the purchase and sale of residential real property means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

EPA means the Environmental Protection Agency.

Evaluation means a risk assessment and/or inspection.

Foreclosure means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

Inspection means:

(1) A surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822], and

(2) The provision of a report explaining the results of the investigation.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-based paint free housing means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

Lessee means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Lessor means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Owner means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

Purchaser means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential dwelling means:

(1) A single-family dwelling, including attached structures such as porches and stoops; or

(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

Risk assessment means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

(1) Information gathering regarding the age and history of the housing and occupancy by children under age 6;

(2) Visual inspection;

(3) Limited wipe sampling or other environmental sampling techniques;

(4) Other activity as may be appropriate; and

(5) Provision of a report explaining the results of the investigation.

Seller means any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term ''seller'' also includes:

(1) An entity that transfers shares in a cooperatively owned project, in return for consideration; and

(2) An entity that transfers its interest in a leasehold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

TSCA means the Toxic Substances Control Act, 15 U.S.C. 2601.

0-bedroom dwelling means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

§ 35.88 Disclosure requirements for sellers and lessors.

(a) The following activities shall be completed before the purchaser or lessee is obligated under any contract to purchase or lease target housing that is not otherwise an exempt transaction pursuant to § 35.82. Nothing in this section implies a positive obligation on the seller or lessor to conduct any evaluation or reduction activities.

(1) The seller or lessor shall provide the purchaser or lessee with an EPA-approved lead hazard information

pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home* (EPA #747-K-94-001) or an equivalent pamphlet that has been approved for use in that State by EPA.

(2) The seller or lessor shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) The seller or lessor shall disclose to each agent the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased and the existence of any available records or reports pertaining to lead-based paint and/or lead-based paint hazards. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(4) The seller or lessor shall provide the purchaser or lessee with any records or reports available to the seller or lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. This requirement includes records and reports regarding common areas. This requirement also includes records and reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.

(b) If any of the disclosure activities identified in paragraph (a) of this section occurs after the purchaser or lessee has provided an offer to purchase or lease the housing, the seller or lessor shall complete the required disclosure activities prior to accepting the purchaser's or lessee's offer and allow the purchaser or lessee an opportunity to review the information and possibly amend the offer.

§ 35.90 Opportunity to conduct an evaluation.

(a) Before a purchaser is obligated under any contract to purchase target housing, the seller shall permit the purchaser a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

(b) Notwithstanding paragraph (a) of this section, a purchaser may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

§ 35.92 Certification and acknowledgment of disclosure.

(a) *Seller requirements*. Each contract to sell target housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement consisting of the following language:

> Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

(2) A statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.

(4) A statement by the purchaser affirming receipt of the information set out in paragraphs (a)(2) and (a)(3) of this section and the lead hazard information pamphlet required under section 15 U.S.C. 2696.

(5) A statement by the purchaser that he/she has either:

(i) Received the opportunity to conduct the risk assessment or inspection required by § 35.90(a); or

(ii) Waived the opportunity.

(6) When any agent is involved in the transaction to sell target housing on behalf of the seller, a statement that:

(i) The agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(7) The signatures of the sellers, agents, and purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

(b) *Lessor requirements*. Each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement with the following language:

> Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

(2) A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist in the housing, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee. If no such records or reports are available, the lessor shall so indicate.

(4) A statement by the lessee affirming receipt of the information set out in paragraphs (b)(2) and (b)(3) of this section and the lead hazard information pamphlet required under 15 U.S.C. 2696.

(5) When any agent is involved in the transaction to lease target housing on behalf of the lessor, a statement that:

(i) The agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(6) The signatures of the lessors, agents, and lessees certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature.

(c) *Retention of certification and acknowledgment information.*

(1) The seller, and any agent, shall retain a copy of the completed attachment required under paragraph (a) of this section for no less than 3 years from the completion date of the sale. The lessor, and any agent, shall retain a copy of the completed attachment or lease contract containing the information required under paragraph (b) of this section for no less than 3 years from the commencement of the leasing period.

(2) This recordkeeping requirement is not intended to place any limitations on civil suits under the Act, or to otherwise affect a lessee's or purchaser's rights under the civil penalty provisions of 42 U.S.C. 4852d(b)(3).

(d) The seller, lessor, or agent shall not be responsible for the failure of a purchaser's or lessee's legal representative (where such representative receives all compensation from the purchaser or lessee) to transmit disclosure materials to the purchaser or lessee, provided that all required parties have completed and signed the necessary certification and acknowledgment language required under paragraphs (a) and (b) of this section.

§ 35.94 Agent responsibilities.

(a) Each agent shall ensure compliance with all requirements of this subpart. To ensure compliance, the agent shall:

(1) Inform the seller or lessor of his/her obligations under §§ 35.88, 35.90, and 35.92.

(2) Ensure that the seller or lessor has performed all activities required under §§ 35.88, 35.90, and 35.92, or personally ensure compliance with the requirements of §§ 35.88, 35.90, and 35.92.

(b) If the agent has complied with paragraph (a)(1) of this section, the agent shall not be liable for the failure to disclose to a purchaser or lessee the presence of lead-based paint and/or lead-based paint hazards known by a seller or lessor but not disclosed to the agent.

§ 35.96 Enforcement.

(a) Any person who knowingly fails to comply with any provision of this subpart shall be subject to civil monetary penalties in accordance with the provisions of 42 U.S.C. 3545 and 24 CFR part 30.

(b) The Secretary is authorized to take such action as may be necessary to enjoin any violation of this subpart in the appropriate Federal district court.

(c) Any person who knowingly violates the provisions of this subpart shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(d) In any civil action brought for damages pursuant to 42 U.S.C. 4852d(b)(3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(e) Failure or refusal to comply with §§ 35.88 (disclosure requirements for sellers and lessors), § 35.90 (opportunity to conduct an evaluation), § 35.92 (certification and acknowledgment of disclosure), or § 35.94 (agent responsibilities) is a violation of 42 U.S.C. 4852d(b)(5) and of TSCA section 409 (15 U.S.C. 2689).

(f) Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. 2615) for each violation. For purposes of enforcing this subpart, the penalty for each violation applicable under 15 U.S.C. 2615 shall be not more than $10,000.

§ 35.98 Impact on State and local requirements.

Nothing in this subpart shall relieve a seller, lessor, or agent from any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing notice or disclosure of known lead-based paint and/or lead-based paint hazards. Neither HUD nor EPA assumes any responsibility for ensuring compliance with such State or local requirements.

40 CFR Chapter I

1. Part 745 is added to read as follows:

PART 745–LEAD-BASED PAINT POISIONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

Subparts A—E [Reserved]

Subpart F — Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

Sec.
745.100 Purpose.
745.101 Scope and applicability.
745.102 Effective dates.
745.103 Definitions.
745.107 Disclosure requirements for sellers and lessors.
745.110 Opportunity to conduct an evaluation.
745.113 Certification and acknowledgment of disclosure.
745.115 Agent responsibilities.
745.118 Enforcement.
745.119 Impact on State and local requirements.

Authority: 15 U.S.C. 2615, 15 U.S.C. 2689, and 42 U.S.C. 4852d.

Subparts A—E [Reserved]

Subpart F—Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

§ 745.100 Purpose.

This subpart implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

§ 745.101 Scope and applicability.

This subpart applies to all transactions to sell or lease target housing, including subleases, with the exception of the following:

(a) Sales of target housing at foreclosure.

(b) Leases of target housing that have been found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program. Until a Federal certification program or federally accredited State certification program is

in place within the State, inspectors shall be considered qualified to conduct an inspection for this purpose if they have received certification under any existing State or tribal inspector certification program. The lessor has the option of using the results of additional test(s) by a certified inspector to confirm or refute a prior finding.

(c) Short-term leases of 100 days or less, where no lease renewal or extension can occur.

(d) Renewals of existing leases in target housing in which the lessor has previously disclosed all information required under § 745.107 and where no new information described in § 745.107 has come into the possession of the lessor. For the purposes of this paragraph, renewal shall include both renegotiation of existing lease terms and/or ratification of a new lease.

§ 745.102 Effective dates.

The requirements in this subpart take effect in the following manner:

(a) For owners of more than four residential dwellings, the requirements shall take effect on September 6, 1996.

(b) For owners of one to four residential dwellings, the requirements shall take effect on December 6, 1996.

§ 745.103 Definitions.

The following definitions apply to this subpart.

The Act means the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d.

Agent means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.

Available means in the possession of or reasonably obtainable by the seller or lessor at the time of the disclosure.

Common area means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

Contract for the purchase and sale of residential real property means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

EPA means the Environmental Protection Agency.

Evaluation means a risk assessment and/or inspection.

Foreclosure means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

HUD means the U.S. Department of Housing and Urban Development.

Inspection means:

(1) A surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822], and

(2) The provision of a report explaining the results of the investigation.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-based paint free housing means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

Lessee means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Lessor means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Owner means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

Purchaser means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential dwelling means:

(1) A single-family dwelling, including attached structures such as porches and stoops; or

(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

Risk assessment means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

(1) Information gathering regarding the age and history of the housing and occupancy by children under age 6;

(2) Visual inspection;

(3) Limited wipe sampling or other environmental sampling techniques;

(4) Other activity as may be appropriate; and

(5) Provision of a report explaining the results of the investigation.

Secretary means the Secretary of Housing and Urban Development.

Seller means any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term ''seller'' also includes:

(1) An entity that transfers shares in a cooperatively owned project, in return for consideration; and

(2) An entity that transfers its interest in a leasehold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

TSCA means the Toxic Substances Control Act, 15 U.S.C. 2601.

0-bedroom dwelling means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

§ 745.107 Disclosure requirements for sellers and lessors.

(a) The following activities shall be completed before the purchaser or lessee is obligated under any contract to purchase or lease target housing that is not otherwise an exempt transaction pursuant to § 745.101. Nothing in this section implies a positive obligation on the seller or lessor to conduct any evaluation or reduction activities.

(1) The seller or lessor shall provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home* (EPA #747-K-94-001) or an equivalent pamphlet that has been approved for use in that State by EPA.

(2) The seller or lessor shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) The seller or lessor shall disclose to each agent the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased and the existence of any available records or reports pertaining to lead-based paint and/or lead-based paint hazards. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(4) The seller or lessor shall provide the purchaser or lessee with any records or reports available to the seller or lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. This requirement includes records or reports regarding common areas. This requirement also includes records or reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.

(b) If any of the disclosure activities identified in paragraph (a) of this section occurs after the purchaser or lessee has provided an offer to purchase or lease the housing, the seller or lessor shall complete the required disclosure activities prior to accepting the purchaser's or lessee's offer and allow the purchaser or lessee an opportunity to review the information and possibly amend the offer.

§ 745.110 Opportunity to conduct an evaluation.

(a) Before a purchaser is obligated under any contract to purchase target housing, the seller shall permit the purchaser a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

(b) Not withstanding paragraph (a) of this section, a purchaser may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

§ 745.113 Certification and acknowledgment of disclosure.

(a) *Seller requirements*. Each contract to sell target housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement consisting of the following language:

> Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

(2) A statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.

(4) A statement by the purchaser affirming receipt of the information set out in paragraphs (a)(2) and (a)(3) of this section and the lead hazard information pamphlet required under 15 U.S.C. 2696.

(5) A statement by the purchaser that he/she has either:

(i) Received the opportunity to conduct the risk assessment or inspection required by § 745.110(a); or

(ii) Waived the opportunity.

(6) When one or more agents are involved in the transaction to sell target housing on behalf of the seller, a statement that:

(i) The agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(7) The signatures of the sellers, agents, and purchasers certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature.

(b) *Lessor requirements*. Each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement with the following language:

> Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

(2) A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint

hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee. If no such records or reports are available, the lessor shall so indicate.

(4) A statement by the lessee affirming receipt of the information set out in paragraphs (b)(2) and (b)(3) of this section and the lead hazard information pamphlet required under 15 U.S.C. 2696.

(5) When one or more agents are involved in the transaction to lease target housing on behalf of the lessor, a statement that:

(i) The agent has informed the lessor of the lessors obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(6) The signatures of the lessors, agents, and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

(c) *Retention of Certification and Acknowledgment Information.*

(1) The seller, and any agent, shall retain a copy of the completed attachment required under paragraph (a) of this section for no less than 3 years from the completion date of the sale. The lessor, and any agent, shall retain a copy of the completed attachment or lease contract containing the information required under paragraph (b) of this section for no less than 3 years from the commencement of the leasing period.

(2) This recordkeeping requirement is not intended to place any limitations on civil suits under the Act, or to otherwise affect a lessee's or purchaser's rights under the civil penalty provisions of 42 U.S.C. 4852d(b)(3).

(d) The seller, lessor, or agent shall not be responsible for the failure of a purchaser's or lessee's legal representative (where such representative receives all compensation from the purchaser or lessee) to transmit disclosure materials to the purchaser or lessee, provided that all required parties have completed and signed the necessary certification and acknowledgment language required under paragraphs (a) and (b) of this section.

§ 745.115 Agent responsibilities.

(a) Each agent shall ensure compliance with all requirements of this subpart. To ensure compliance, the agent shall:

(1) Inform the seller or lessor of his/her obligations under §§745.107, 745.110, and 745.113.

(2) Ensure that the seller or lessor has performed all activities required under §§ 745.107, 745.110, and 745.113, or personally ensure compliance with the requirements of §§ 745.107, 745.110, and 745.113.

(b) If the agent has complied with paragraph (a)(1) of this section, the agent shall not be liable for the failure to disclose to a purchaser or lessee the presence of lead-based paint and/or lead-based paint hazards known by a seller or lessor but not disclosed to the agent.

§ 745.118 Enforcement.

(a) Any person who knowingly fails to comply with any provision of this subpart shall be subject to civil monetary penalties in accordance with the provisions of 42 U.S.C. 3545 and 24 CFR part 30.

(b) The Secretary is authorized to take such action as may be necessary to enjoin any violation of this subpart in the appropriate Federal district court.

(c) Any person who knowingly violates the provisions of this subpart shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(d) In any civil action brought for damages pursuant to 42 U.S.C. 4852d(b)(3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(e) Failure or refusal to comply with § 745.107 (disclosure requirements for sellers and lessors), § 745.110 (opportunity to conduct an evaluation), § 745.113 (certification and acknowledgment of disclosure), or § 745.115 (agent responsibilities) is a violation of 42 U.S.C. 4852d(b)(5) and of TSCA section 409 (15 U.S.C. 2689).

(f) Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. 2615) for each violation. For purposes of enforcing this subpart, the penalty for each violation applicable under 15 U.S.C. 2615 shall be not more than $10,000.

§ 745.119 Impact on State and local requirements.

Nothing in this subpart shall relieve a seller, lessor, or agent from any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing notice or disclosure of known lead-based paint or lead-based paint hazards. Neither HUD nor EPA assumes any responsibility for ensuring compliance with such State or local requirements.

[FR Doc. 96–5243 Filed 3–5–96; 8:45 am]

BILLING CODE 6560–50–F

Reader Aids

Federal Register

Vol. 61, No. 45

Wednesday, March 6, 1996

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Public inspection announcement line	**523–5215**

Laws

Public Laws Update Services (numbers, dates, etc.)	**523–6641**
For additional information	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
TDD for the hearing impaired	**523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, MARCH

7979–8204 1
8205–8466 4
8467–8850 5
8851–9088 6

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamation:
6867 8843
6868 8847
6869 8849

Executive Order:
12990 8467

Administrative Orders:
Presidential Determinations:
No. 96–10 of February 23, 1996 8463
No. 96–11 of February 23, 1996 8465

7 CFR

301 8205
319 8205
457 8851
1487 8207
1491 8207
1492 8207
1495 8207

Proposed Rules:
916 8225
917 8225

8 CFR

242 8858

9 CFR

Proposed Rules:
310 8892
318 8892
319 8892
381 8892

12 CFR

Proposed Rules:
703 8499

13 CFR

Ch. III 7979
107 7985
115 7985
120 7985
121 7986
125 7986

14 CFR

39 ..... 8209, 8211
71 8859

Proposed Rules:
39 ..... 8892, 8896, 8897
71 8899

15 CFR

785 8471

16 CFR

Proposed Rules:
405 8499

18 CFR

157 8213
201 8860
284 ..... 8860, 8870

19 CFR

10 7987
113 7987

Proposed Rules:
101 8001

20 CFR

368 8213

21 CFR

5 ..... 8214, 8472
73 7990
101 8752
136 8781
137 8781
139 8781
172 8797
180 7990
332 8836
510 8872
520 8872
522 8872
524 8872
880 8432
890 8432

Proposed Rules:
2 8002
54 8502
70 8372
73 8372
74 8372
80 8372
81 8372
82 8372
101 ..... 8372, 8750, 8900
178 8372
201 8372
312 8502
314 8502
320 8502
330 ..... 8450, 8502
601 8502
701 8372
807 8502
812 8502
814 8502
860 8502
1300 8503
1301 8503
1302 8503
1303 8503
1304 8503
1305 8503
1306 8503
1307 8503
1308 8503
1309 8503

1310....8503
1311....8503
1312....8503
1313....8503
1316....8503

22 CFR

514....8215

24 CFR

5....9040
35....9064
92....9036
202....8458
880....9040
881....9040
882....9040
883....9040
884....9040
885....9040
886....9040
889....9040
904....9040
941....8712
950....8712
955....9052
960....9040
962....8814
965....8712
968....8712
982....9040
983....9040
984....8814

Proposed Rules:

250....8901
251....8901
256....8901

26 CFR

1....7991
20....7991
25....7991

28 CFR

52....8472

30 CFR

Proposed Rules:

250....8534, 8901
251....8901
256....8901
906....8534
936....8536

31 CFR

535....8216

Proposed Rules:

357....8420

32 CFR

Proposed Rules:

324....8003

33 CFR

100....8216, 8217, 8218
165....8219, 8220

Proposed Rules:

100....8227, 8229

34 CFR

75....8454
345....8158

40 CFR

52....7992, 7995, 8873
70....8875
80....8221
152....8876
167....8221
300....7996

Proposed Rules:

52....8008, 8009, 8901
82....9014
122....8229
123....8229
180....8174, 8901, 8903
300....8012
403....8229
501....8229
745....9064

43 CFR

Proposed Rules:

Ch. II....8537
14....8538

44 CFR

61....8222
64....7997, 8474

46 CFR

Proposed Rules:

108....8539
110....8539
111....8539
112....8539
113....8539
161....8539

47 CFR

0....8475
2....8475
5....8475
21....8475
22....8475
23....8475
25....8475
61....8879
64....8879
73....7999, 8000, 8475, 8880, 8881
78....8475
80....8475
90....8475, 8478
94....8475
95....8475

Proposed Rules:

2....8905
25....8905
73....8014, 8230
87....8905

49 CFR

Proposed Rules:

171....8328
173....8328
178....8328
192....8231
193....8231
195....8231
229....8881

50 CFR

285....8223
290....8224
380....8483
650....8490
651....8492
655....8496
661....8497
672....8888
675....8497, 9498, 8888, 8889
683....8890

Proposed Rules:

17....8014, 8016, 8018
23....8019
651....8540
663....8021
675....8023
686....8564

REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; published 2-5-96

Clean Air Act:
- State operating permits programs--
  - California; published 2-5-96
  - Oklahoma; published 2-5-96

Toxic substances:
- Lead--
  - Lead-based paint poisoning prevention in residential structures; information disclosure requirements; published 3-6-96

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Inmate calling services; prison payphones; designation as customer premises equipment (CPE); declaratory ruling; published 3-6-96

Radio stations; table of assignments:
- North Carolina; published 3-6-96
- Pennsylvania; published 3-6-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Sponsor name and address changes--
  - Mallinckrodt Veterinary, Inc.; published 3-6-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Lead-based paint poisoning prevention in residential structures; information disclosure requirements; published 3-6-96

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Organization, functions, and authority delegations:
- Institutional hearing program director; published 3-6-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Class D and Class E airspace; published 3-6-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Onions, imported; comments due by 3-11-96; published 2-9-96

AGRICULTURE DEPARTMENT

Rural Utilities Service

Telecommunications standards and specifications:
- Materials, equipment, and construction--
  - Postloan engineering services contract; comments due by 3-11-96; published 2-8-96

COMMERCE DEPARTMENT

International Trade Administration

Antidumping and countervailing duty proceedings:
- Procedures for imposing sanctions for violation of a protective order; administrative protective order procedures; comments due by 3-11-96; published 2-8-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Caribbean Fishery Management Council; hearing; comments due by 3-15-96; published 2-23-96

Ocean and coastal resource management:
- Monterey Bay National Marine Sanctuary, CA--
  - Shark attraction by chum or other means; restriction or prohibition; comments due by 3-13-96; published 2-12-96

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Alabama; comments due by 3-13-96; published 2-12-96
- California; comments due by 3-11-96; published 2-9-96
- Illinois; comments due by 3-14-96; published 2-13-96
- Indiana; comments due by 3-11-96; published 2-9-96
- Maine; comments due by 3-15-96; published 2-14-96
- Massachusetts; comments due by 3-15-96; published 2-14-96
- Michigan; comments due by 3-15-96; published 2-14-96
- Mississippi; comments due by 3-13-96; published 2-12-96
- Nebraska; comments due by 3-11-96; published 2-9-96
- Nevada; comments due by 3-11-96; published 2-9-96
- North Carolina; comments due by 3-15-96; published 2-14-96
- Pennsylvania; comments due by 3-13-96; published 2-12-96
- Wisconsin; comments due by 3-13-96; published 2-12-96

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- New York et al.; comments due by 3-13-96; published 2-12-96

Hazardous waste program authorizations:
- Alabama; comments due by 3-15-96; published 2-14-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Lactofen; comments due by 3-15-96; published 2-14-96
- Oxo-alkyl acetates; comments due by 3-15-96; published 2-14-96

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Out-of-region interstate, interexchange services (including interLATA and intraLATA services); Bell Operating Co. provision; comments due by 3-13-96; published 2-21-96

Radio stations; table of assignments:
- Arizona; comments due by 3-11-96; published 1-26-96
- Kansas; comments due by 3-11-96; published 1-26-96

FEDERAL TRADE COMMISSION

Trade regulation rules:
- Textile wearing apparel and piece goods; care labeling; comments due by 3-12-96; published 12-28-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:
- Periodic acid and polyethylenimine; comments due by 3-11-96; published 2-9-96

Food for human consumption:
- Food labeling--
  - Dietary supplements, nutrition and ingredient labeling; identity statement; comments due by 3-13-96; published 12-28-95
  - Nutrient content claims, health claims, and dietary supplements nutritional support statements; requirements; comments due by 3-13-96; published 12-28-95
  - Nutrient content claims; definitions, etc.; comments due by 3-13-96; published 12-28-95

GRAS or prior-sanctioned ingredients:
- Meat and poultry products; substances approved; comments due by 3-14-96; published 12-29-95

NATIONAL LABOR RELATIONS BOARD

Requested single location bargaining units in representation cases; appropriateness; comments due by 3-15-96; published 2-5-96

NUCLEAR REGULATORY COMMISSION

Radiation protection standards:
- Radionuclides; constraint level for air emission; comments due by 3-12-96; published 12-13-95

Rulemaking petitions:
- Heartland Operation to Protect Environment; comments due by 3-11-96; published 1-9-96

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems; comments due by 3-11-96; published 2-9-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 3-11-96; published 1-31-96

Boeing; comments due by 3-11-96; published 1-19-96

Lockheed; comments due by 3-11-96; published 2-21-96

McDonnell Douglas; comments due by 3-11-96; published 1-10-96

Textron Lycoming; comments due by 3-11-96; published 1-9-96

Transport category airplanes; comments due by 3-12-96; published 1-19-96

Class D and E airspace; comments due by 3-15-96; published 2-15-96

Class E airspace; comments due by 3-15-96; published 2-15-96

Restricted areas; comments due by 3-15-96; published 2-2-96

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

School bus manufacturers and school transportation providers; meeting; Federal regulatory review; comments due by 3-15-96; published 12-27-95

TREASURY DEPARTMENT

Community Development Financial Institutions Fund

Community development financial institutions and bank enterprise award programs; comments due by 3-15-96; published 1-23-96

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Future benefit accrual rate; significant reduction notice; cross reference; comments due by 3-14-96; published 12-15-95

Inventory and natural resources produced in one jurisdiction and sold in another jurisdiction; source of income from sales; comments due by 3-11-96; published 12-11-95

Partnerships; distribution of marketable securities; comments due by 3-13-96; published 1-2-96

Procedure and administration:

Return information disclosure; property or services for tax administration purposes; procurement; comments due by 3-14-96; published 12-15-95

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

National Environmental Policy Act; implementation; comments due by 3-11-96; published 1-25-96