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Friday
March 15, 1996

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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.

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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

Farm Service Agency

7 CFR Part 704

RIN 0560–AE56

1986–1990 Conservation Reserve Program

AGENCY: Farm Service Agency, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the program regulations to allow holders of certain Conservation Reserve Program (CRP) contracts that expire September 30, 1996, the opportunity to request and receive early release from contracts or to reduce the amount of acreage subject to the contracts. The purpose of this action is to enhance the commodity supply situation for the 1996/97 marketing year. Domestic stocks relative to use of wheat, feed grains, and oil seeds are expected to be at extremely low levels for the 1995/96 crop year. For corn, the expected stocks to use ratio in the 1995/96 crop year is approximately 6 percent while the average stocks to use ratio from 1980 through 1994 was 30 percent. For wheat, the expected stocks to use ratio in the 1995/96 crop year is approximately 16 percent, while the average stocks to use ratio from 1980 through 1994 was 43 percent. However, the domestic and export demand for these commodities are expected to remain strong during the 1996/97 crop year. The action is implemented to allow acreage that can be brought back into production without adversely impacting the environment to be released for crop production in 1996.

DATES: *Effective Date:* Interim rule effective March 15, 1996.

Comments: Comments on all items, except the information collection requirements, must be received on or before April 15, 1996 in order to be assured of consideration. Comments on the information collection requirements must be received on or before May 14, 1996.

ADDRESSES: Comments should be mailed to Cheryl Zavodny, Farm Service Agency, P.O. Box 2415, Ag Box Code 05l3, Washington, DC 20013–2415; telephone 202–720–6304. Comments received may be inspected between 9 a.m. and 4 p.m., Monday through Friday, except holidays, in room 4768, South Agriculture Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cheryl Zavodny, Conservation and Environmental Protection Division, FSA, P.O. Box 2415, Room 4768–S, Washington, DC 20013–2415.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because neither FSA nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not adversely affect the environmental, historical, social, or economic resources of the Nation. Therefore, it has been determined that these actions will not require an Environmental Assessment or an Environmental Impact Statement.

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 notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Conservation Reserve Program—10.069.

Paperwork Reduction Act

Revisions were made to the currently approved information collection to reflect the Department's January 25, 1996, announcement regarding early release provisions. Current approval by the Office of Management and Budget (OMB) is located under control number 0560–0125. Total public burden hours are based on the assumption that approximately 10,000 requests will be received for early release in 1996.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Owners, operators, and other producers participating in CRP.

Estimated Number of Respondents: 10,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5,000 hours.

Comments are invited on: (a) whether the proposed collection information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (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 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. Comments may be sent to Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C., 20503 and to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, USDA, FSA, P.O. Box 2415, Ag Box 0513, Washington, D.C., 20013, (202) 720–6304.

Copies of information collection may be obtained from Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, USDA, FSA, P.O.

Box 2415, Ag Box 0513, Washington, D.C., 20013, (202) 720–6304.

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

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State and local laws to the extent such laws are inconsistent with the provisions of this rule. Before any action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded program participants at 7 CFR part 780 must be exhausted.

Request for Comments

Comments are requested with respect to this interim rule and such comments shall be considered in developing the final rule.

Background

The current regulations in 7 CFR Part 704 and 7 CFR Part 1410 implemented the CRP, which is authorized by Title XII of the Food Security Act of 1985, as amended. Contracts due to expire on September 30, 1996, are subject to the regulations found in 7 CFR Part 704.

The intent of the CRP is to permit the CCC to enter into contracts with owners and operators of highly erodible and certain other cropland to assist such owners and operators in conserving and improving the Nation's soil and water resources and wildlife habitat. By entering into a contract, the owner or operator agreed to implement an approved conservation plan converting highly erodible cropland normally devoted to the production of an agricultural commodity to a conserving use and to a reduction in certain crop acreage bases, allotments, or quotas. CCC provides (1) funds to support technical assistance by way of a conservation plan, (2) financial assistance for the costs of establishing the conservation practices required by the conservation plan, and (3) annual land rental payments to compensate the owner or operator for taking the cropland out of production.

The Department has announced that options to extend expiring contracts will be announced before the early release signup period begins, so that participants will have all the information to make their CRP decisions.

Program Changes

The Secretary has determined that in order to enhance the commodity supply situation for the 1996/97 marketing year, CRP participants with certain acreage due to expire from CRP on September 30, 1996, may release all or part of the acreage before the expiration date. This interim rule provides authority to permit these CRP participants the option of early termination with an effective date not to exceed September 30, 1996, on certain acreage under CRP contract in whole or in part, without penalty or obligation to refund previous payments issued under the contract, provided the acreage released, if highly erodible and if farmed, is farmed under an Alternative Conservation System as determined by the Natural Resources Conservation Service (NRCS). The conservation plan for such acreage will avoid measures more restrictive than those of an Alternative Conservation System. If the acreage is to be hayed or grazed, an approved haying or grazing plan for the acreage will be developed by NRCS. Under previous early release regulations, published as an interim rule on May 8, 1995, participants requesting early release of acreage to be farmed were required to obtain from NRCS and follow a more restrictive Basic Conservation System. Crop acreage bases, allotments, and quotas will be reinstated effective for the 1996 crop year.

CRP contract acreage which is not eligible for early termination under this rule includes acreage subject to contracts due to expire after September 30, 1996; acreage with an erodibility index (EI) greater than 15, as determined by NRCS; acreage within an average of 100 feet of a stream or other permanent waterbody; acreage on which a CRP easement is filed; and acreage on which there exist the following practices installed or developed as a result of participation in CRP: grass waterways, filter strips, shallow water areas for wildlife, bottomland timber established on wetlands, field windbreaks, and shelterbelts. Exclusion of these areas will contribute to continued prevention of soil erosion and protection of water quality and certain wildlife habitat.

Although CRP participants are not obligated to request early release from their contracts, all signatories to the CRP contract must agree to the release. Acreage released under this voluntary opportunity will not be eligible for subsequent reenrollment. Further, acreage that is not eligible for early release may not otherwise be removed from the contract.

Because CRP participants are making planting decisions and wish to carry out their plans as early as possible, it is necessary that this regulation be effective upon publication. This action must be effective immediately to provide participants the opportunity to finalize their farming plans.

List of Subjects in 7 CFR Part 704

Administrative practices and procedures, Base protection, Conservation System, Contracts, Environmental indicators, Natural resources, and Technical assistance.

Accordingly, 7 CFR Part 704 is amended as follows:

PART 704—1986–1990 CONSERVATION RESERVE PROGRAM

1. The authority citation for 7 CFR Part 704 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

2. Section 704.2 is amended by redesignating paragraphs (a)(12) through (a)(24) as (a)(13) through (a)(25), respectively, and adding a new paragraph (a)(12) to read as follows:

§ 704.2 Definitions.

(a) * * *

(12) *Erodibility index (EI)* means the factor calculated by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture which is used to determine the inherent erodibility that a soil possesses without management by dividing the potential average annual rate of erosion for each soil by the predetermined soil loss tolerance (T) value for the soil;

3. In § 704.20, paragraph (a)(4) is amended by revising the first sentence and by adding a new sentence at the end of the paragraph to read as follows:

§ 704.20 Contract modifications.

(a) * * *

(4) Terminate contracts scheduled to expire on September 30, 1996 prior to the expiration date with an effective date no later than September 30, 1996, provided the acreage released, if farmed, is farmed under a conservation system as determined by the Natural Resources Conservation Service (NRCS) or, if the acreage is to be hayed or grazed, an approved haying or grazing plan is developed by the NRCS. * * * In addition, for any land for which an early release is sought, the land must have an EI of 15 or less.

Signed at Washington, DC, on March 11, 1996.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 96–6116 Filed 3–14–96; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–41; Amendment 39–9347; AD 95–17–16]

Airworthiness Directives; General Electric Company CF6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 95–17–16 applicable to General Electric Company (GE) CF6–80A series turbofan engines that was published in the Federal Register on August 20, 1995 (60 FR 46760). A compressor rear frame (CRF) part number (P/N) in the compliance section is incorrect. This document corrects that P/N. In all other respects, the original document remains the same.

DATES: Effective March 15, 1996.

SUPPLEMENTARY INFORMATION: A final rule airworthiness directive applicable to General Electric Company (GE) CF6–80A series turbofan engines, was published in the Federal Register on August 20, 1995 (60 FR 46760). The following correction is needed:

On page 46761, in the second column, in the Compliance Section, in paragraph (a), ''7283M77G15'' should read ''9283M77G15.'' Issued in Burlington, MA, on February 14, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–5853 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

RIN 1076–AD29

Law and Order on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This document amends the Agency's regulations governing Courts of Indian Offenses by removing from the Listing of Courts of Indian Offenses the names of those tribes which have exercised their inherent sovereignty and established tribal courts.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Bettie Rushing, Bureau of Indian Affairs, 1849 C St., NW., Mail Stop 4140–MIB, Washington, DC 20240–4001, telephone number (202) 208–0437.

SUPPLEMENTARY INFORMATION: The authority to issue this amendment is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9, and 25 U.S.C. 13 which authorizes appropriations for ''Indian judges.''

The final rule amending the regulations contained in 25 CFR Part 11 which included the Shoshone and Arapahoe Tribes of the Wind River Reservation (Wyoming), Flandreau Santee Sioux (South Dakota), the Yankton Sioux Tribe (South Dakota), the Cocopah Tribe (Arizona), the Kaibab Band of Paiute Indians (Arizona), the Duckwater Shoshone Tribe (Nevada), and the Mississippi Band of Choctaw Indians (Mississippi) in the listing of tribes to which Section 11.100(a) is applicable, was published September 22, 1994.

The Assistant Secretary-Indian Affairs, or her designee, is in receipt of law and order codes adopted by the Arapahoe Tribes of the Wind River Reservation, the Flandreau Santee Sioux, the Yankton Sioux Tribe, the Cocopah Tribe, the Kaibab Band of Paiute Indians, the Duckwater Shoshone Tribe, and the Mississippi Band of Choctaw Indians in accordance with their constitutions and by-laws and approved by the appropriate Bureau official. The Assistant Secretary-Indian Affairs further recognizes that these courts were established in accordance with the tribes' constitutions and by-laws.

Inclusion in § 11.100, *Listing of Courts of Indian Offenses*, does not defeat the inherent sovereignty of a tribe to establish tribal courts and exercise jurisdiction under tribal law. *Tillett* v. *Lujan*, 931 F.2d 636, 640 (10th Cir. 1991) (C.F.R. courts ''retain some characteristics of an agency of the federal government'' but they ''also function as tribal courts''); *Combrink* v. *Allen*, 20 Indian L. Rep. 6029, 6030 (Ct. Ind. App., Tonkawa, Mar. 5, 1993) (C.F.R. court is a ''federally administered tribal court''); *Ponca Tribal Election Board* v. *Snake*, 17 Indian L. Rep. 6085, 6088 (Ct. Ind. App., Ponca, Nov. 10, 1988) (''The Courts of Indian Offenses act as tribal courts since they are exercising the sovereign authority of the tribe for which the court sits.''). Such exercise of inherent sovereignty and the establishment of tribal courts shall comply with the requirements set forth in 25 CFR 11.100(c).

The Department has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

This document is not a significant rule under Executive Order 12866 and, therefore, will not require the approval of the Office of Management and Budget.

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

In accordance with E.O. 12630, the Department has determined that this rule does not have significant takings implications.

The Department has determined that this rule does not have significant federalism effects.

The Department of the Interior has determined that this correction does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

This correction does not contain information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

The primary authors of this document are Earl Azure, Aberdeen Area Office, Terry Bruner, Anadarko Area Office, Mike Simpson, Billings Area Office, Karen Ketcher, Muskogee Area Office, Sharlot Johnson, Phoenix Area Office, and Bettie Rushing, Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior.

List of Subjects in 25 CFR Part 11

Courts, Indians—law, Law enforcement, penalties.

For the reasons stated in the preamble, Part 11 of title 25 of the Code of the Federal Regulations is amended as follows:

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

1. The authority citation for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; R.S. 463; 25 U.S.C. 2; R.S. 465; 25 U.S.C. 9; 42 Stat. 208; 25 U.S.C. 13; 38 Stat. 586; 25 U.S.C. 200.

* * * * *

2. Section 11.100 is amended by revising paragraph (a) as follows:

§ 11.100 Listing of Courts of Indian Offenses.

(a) Except as otherwise provided in this title, the regulations under this part are applicable to the Indian country (as defined in 18 U.S.C. 1151) occupied by the following tribes:

(1) Red Lake Band of Chippewa Indians (Minnesota).

(2) Confederated Tribes of the Goshute Reservation (Nevada).

(3) Lovelock Paiute Tribe (Nevada).

(4) Te-Moak Band of Western Shoshone Indians (Nevada).

(5) Yomba Shoshone Tribe (Nevada).

(6) Kootenai Tribe (Idaho).

(7) Shoalwater Bay Tribe (Washington).

(8) Eastern Band of Cherokee Indians (North Carolina).

(9) For the following tribes located in the former Oklahoma Territory (Oklahoma):

(i) Absentee Shawnee Tribe of Indians of Oklahoma
(ii) Apache Tribe of Oklahoma
(iii) Caddo Tribe of Oklahoma
(iv) Cheyenne-Arapaho Tribe of Oklahoma
(v) Citizen Band of Potawatomi Indians of Oklahoma
(vi) Comanche Tribe of Oklahoma (Except Comanche Children's Court)
(vii) Delaware Tribe of Western Oklahoma
(viii) Fort Sill Apache Tribe of Oklahoma
(ix) Iowa Tribe of Oklahoma
(x) Kaw Tribe of Oklahoma
(xi) Kickapoo Tribe of Oklahoma
(xii) Kiowa Tribe of Oklahoma
(xiii) Otoe-Missouria Tribe of Oklahoma
(xiv) Pawnee Tribe of Oklahoma
(xv) Ponca Tribe of Oklahoma
(xvi) Tonkawa Tribe of Oklahoma
(xvii) Wichita and Affiliated Tribes of Oklahoma.

(10) Hoopa Valley Tribe, Yurok Tribe, and Coast Indian Community of California (California Jurisdiction limited to special fishing regulations).

(11) Louisiana Area (includes Coushatta and other tribes in the State of Louisiana which occupy Indian country and which accept the application of this part);

Provided that this part shall not apply to any Louisiana tribe other than the Coushatta Tribe until notice of such application has been published in the Federal Register.

(12) For the following tribes located in the former Indian Territory (Oklahoma):

(i) Chickasaw Nation
(ii) Choctaw Nation
(iii) Thlopthlocco Tribal Town
(iv) Seminole Nation
(v) Eastern Shawnee Tribe
(vi) Miami Tribe
(vii) Modoc Tribe
(viii) Ottawa Tribe
(ix) Peoria Tribe
(x) Quapaw Tribe
(xi) Wyandotte Tribe
(xii) Seneca-Cayuga Tribe
(xiii) Osage Tribe.

(13) Ute Mountain Ute Tribe (Colorado).

* * * * *

Dated: March 6, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–6231 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–02–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in April 1996, and to multiemployer plans with valuation dates in April 1996. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the April 1996 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the ''single-employer regulation'') and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the ''multiemployer regulation'').

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and ''benefit liabilities,'' *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during April 1996 and multiemployer plans that have undergone mass withdrawal and have valuation dates during April 1996.

For annuity benefits, the interest rates will be 5.80% for the first 20 years following the valuation date and 4.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.75% for the period during which benefits are in pay status, and 4.0% during all years

preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for March 1996) of .30 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent an increase (from those in effect for March 1996) of .50 percent for the period during which benefits are in pay status and are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the Federal Register by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during April 1996, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during April 1996, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, Rate Set 30 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump sum valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
30	04–1–96	05–1–96	4.75	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
*	*		*	*	*	
April 1996	.0580	1–20	.0475	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 30 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i^2 shall apply for the following n_2 years, interest rate i^1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump sum valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
30	04–1–96	05–1–96	4.75	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
* * *	*		*		*	*
April 1996	.0580	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 11th day of March 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–6122 Filed 3–14–96; 8:45 am]

BILLING CODE 7708–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5440–5]

Protection of Stratospheric Ozone; Refrigerant Recycling

AGENCY: Environmental Protection Agency (EPA).

ACTION: Temporary order.

SUMMARY: In today's action, EPA is issuing an order temporarily extending the effectiveness of the refrigerant purity requirements of § 82.154 (g) and (h), which are currently scheduled to expire on March 18, 1996. On February 29, 1996 EPA published a direct final rule (61 FR 7724) and a proposal (61 FR 7762) to extend the requirements in response to requests from the air-conditioning and refrigeration industry to avoid widespread contamination of the stock of chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that could result from the lapse of the purity standard. This direct final would become effective on April 15, 1996, at the earliest. Such contamination could cause extensive damage to air-conditioning and refrigeration equipment, release of refrigerants, and refrigerant shortages with consequent price increases. On that same date, EPA also published a proposal to adopt a more flexible approach to ensuring the purity of

refrigerants and soliciting public comment on this approach (61 FR 7858).

Today's temporary extension will not result in any additional burden on the regulated community. Moreover, the retention of the reclamation requirement will protect the environment, public health, and consumers by ensuring that contaminated refrigerants are not vented or charged into equipment. This extension will be effective until: the direct final action becomes effective; EPA takes final action on the proposal to extend the effectiveness of the reclamation requirements; or May 30, 1996, whichever date is earliest.

EFFECTIVE DATE: This order will become effective March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Cindy Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street SW., Washington, DC 20460. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Background
II. Today's Action
III. Summary of Supporting Analysis
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Regulatory Flexibility Act

I. Background

On May 14, 1993, EPA published final regulations establishing a recycling program for ozone-depleting refrigerants recovered during the servicing and disposal of air-conditioning and refrigeration equipment (58 FR 28660). When EPA promulgated the final rule, the Agency noted that further rulemaking would be required to address issues that had been raised during the comment period for the proposed rule (57 FR 58644). EPA accordingly made the reclamation requirements at § 82.154 (g) and (h) effective until May 15, 1995, two years after publication of the final rule. EPA believed that this two-year period would be sufficient for industry to develop new guidelines for reuse of refrigerant and for EPA to complete a rulemaking to adopt them if EPA determined that they would continue to reduce emissions to the lowest achievable level and maximize the recapture and recycling of refrigerants (58 FR 28679).

A committee representing a wide range of interests within the air-conditioning and refrigeration industry provided EPA with recommended requirements for reuse of refrigerant in December 1994. Because the original sunsetting date was approaching, EPA pursued a rulemaking to extend the effectiveness of § 82.154 (g) and (h) (60 FR 14608) until March 18, 1996. EPA believed that this extension would provide sufficient time to develop and publish a final rule based on these recommendations.

On February 29, 1996, EPA published a proposed rulemaking recommending new and more flexible requirements for refrigerant reclamation. On that date, EPA also published a direct final notice and a parallel proposal to extend the effective date of the current requirements until December 31, 1996. If no adverse comments are received on the direct final notice by April 1, 1996, that notice will become effective on April 15, 1996. If adverse comments are received, EPA will need to take final action on the proposed extension of the requirements.

Because the current requirements expire on March 18, 1996, and the earliest date by which the direct final could become effective is April 15, 1996, there will be at least a one-month lapse in the effectiveness of the current rule. Representatives of the air-conditioning and refrigeration industry have expressed concern that any lapse, even a temporary one, in refrigerant purity requirements could result in a number of problems, including sloppy handling of refrigerant and dumping of contaminated refrigerant on the market. These problems could significantly damage equipment, lead to release of refrigerant, and aggravate refrigerant shortages. As a result, industry has requested that EPA take action to temporarily extend the effectiveness of the current purity requirements until the direct final action becomes effective or until EPA takes final action on the proposal. Many of the concerns expressed by industry concerning a lapse in the current requirements are detailed in the direct final notice (61 FR 7724). Readers are encouraged to review that notice.

II. Today's Action

In response to these concerns, EPA is temporarily extending the effectiveness of the current reclamation requirements until: May 30, 1996; the effective date of the direct final action; or EPA takes final action on the proposed notice, whichever date is earliest. EPA is issuing this order because it is not practicable to complete notice and comment rulemaking concerning the temporary extension of the current regulations prior to expiration on March 18, 1996. Section 553 of the Administrative Procedures Act (APA) authorizes agencies to dispense with certain procedures for rules when there exists ''good cause'' to do so. Under section 553(b)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

In these grave circumstances, EPA has determined that good cause exists based on concern expressed by industry that even a temporary lapse of the current reclamation requirements could cause contamination of refrigerants and possible damage to equipment. Immediate action to prevent such a lapse in the rule is necessary to avoid disruption to the ongoing regulatory program and prevent harm to the environment and property. The sole purpose of today's action is to preserve the status quo pending final action by EPA to extend these requirements following notice and comment procedures. This order is intended to temporarily address an interim lapse in the current regulatory requirements, and therefore will remain effective until no later than May 30, 1996.

III. Summary of Supporting Analysis

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 action 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.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

This order merely extends the current reclamation requirements for a very limited time. Therefore, there are no mandates to the states.

C. Paperwork Reduction Act

There is no additional information collection requirements associated with this order; therefore, EPA has determined that the Paperwork Reduction Act does not apply. The initial § 608 final rulemaking did address all recordkeeping associated with the refrigerant purity provisions. An Information Collection Request (ICR) document was prepared by EPA and approved by the Office of Management and Budget(OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. This ICR is contained in the public docket A–92–01.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, 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 an action will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

EPA believes that since this action merely extends a current requirement designed to protect purity of refrigerants temporarily, there will be no adverse effects for the regulated community, including small entities. An examination of the impacts of these provisions was discussed in the initial final rule promulgated under § 608 (58 FR 28660). That final rule assessed the impact the rule may have on small entities. A separate regulatory impact analysis was developed. That impact analysis accompanied the final rule and is contained in Docket A–92–01.

I certify that this temporary order will not have any additional negative economic impacts on any small entities.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Hydrochlorofluorocarbons, Interstate commerce, Reporting and reclamation, Reporting and recordkeeping Requirements, Refrigerant purity, Recycling, Stratospheric ozone layer.

Dated: March 11, 1996.

Carol M. Browner,

Administrator.

Part 82, chapter I, title 40, of the Code of Federal Regulations, is amended to read 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 82.154 is amended by revising paragraphs (g) and (h) to read as follows:

§ 82.154 Prohibitions.

* * * * *

(g) Effective from March 15, 1996 until no later than May 30, 1996, no person may sell or offer for sale for use as a refrigerant any class I or class II substance consisting wholly or in part of used refrigerant unless:

(1) The class I or class II substance has been reclaimed as defined at § 82.152;

(2) The class I or class II substance was used only in an MVAC or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance; or

(3) The class I or class II substance is contained in an appliance that is sold or offered for sale together with the class I or class II substance.

(h) Effective from March 15, 1996 until no than May 30, 1996, no person may sell or offer for sale for use as a refrigerant any class I or class II substance consisting wholly or in part of used refrigerant unless:

(1) The class I or class II substance has been reclaimed by a person who has been certified as a reclaimer pursuant to § 82.164;

(2) The class I or class II substance was used only in an MVAC or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance; or

(3) The class I or class II substance is contained in an appliance that is sold or offered for sale together with the class I or class II substance.

* * * * *

[FR Doc. 96–6219 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 180

[PP 4F4309/R2216; FRL–5354–9]

RIN 2070–AB78

Cyfluthrin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes time-limited tolerances with an expiration date of November 15, 1997, for residues of the synthetic pyrethroid cyfluthrin in or on the raw agricultural commodities (RAC's) alfalfa, sunflowers, and fat of cattle, goats, horses, hogs, and sheep; and an expiration date of July 5, 1999 for residues of cyfluthrin in or on sweet corn. The proposed tolerances and regulations to establish a maximum permissible level for residues of the pesticide was requested in a petition submitted by Bayer Corp. (formerly Miles Corp.).

EFFECTIVE DATE: This regulation becomes effective March 15, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4F4309/R2216], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In

person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 4F4309/R2216]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 200, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703–305–6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a public notice, published in the Federal Register of July 13, 1994 (59 FR 35719), which announced that Bayer Corp. had submitted pesticide petition (PP) 4F4309 and feed additive petition (FAP) 4H5686 to EPA.

Pesticide petition (PP) 4F4309 requests that the Administrator, pursuant to sections 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d) and 348(b), amend 40 CFR 180.436 by establishing tolerances for residues of the insecticide cyfluthrin, [cyano[4-fluoro-3-phenoxyphenyl]- methyl-3-[2,2-dicloroethenyl]-2,2-dimethylcyclopropanecarboxylate] in or on the raw agricultural commodities (RACs) sweet corn, forage at 54.0 ppm; alfalfa, hay at 10.0 ppm; soybean, forage at 10.0 ppm; alfalfa, forage at 5.0 ppm; soybean, hay at 1.5 ppm; sunflower, forage at 1.0 ppm; sweet corn at 0.05 ppm; soybeans at 0.03 ppm and sunflower, seed at 0.02 ppm.

Food/feed additive petition (FAP) 4H5686 requests that the Administrator pursuant to section 409(e) of the FFDCA (21 U.S.C. 348(e)) amend 40 CFR 186.1250 by establishing a food/feed additive regulation for cyfluthrin in or on sunflower hulls at 2.5 ppm and soybean hulls at 0.1 ppm.

On September 18, 1995, Bayer Corp. requested (60 FR 64059, December 13, 1995) that the pesticide petition (4F4309) be amended by decreasing the proposed tolerances on sweet corn forage from 54.0 ppm to 30.0 ppm; increasing tolerances for fat of cattle, goats, hogs, horses and sheep from 0.05 ppm to 5.0 ppm; establishing a tolerance of 15.0 ppm for milkfat (representing 0.5 ppm in whole milk); and withdrawing proposed tolerances for soybean forage, soybean hay, and soybeans; and the food/feed additive regulation petition (3H5686) for sunflower hulls at 2.5 ppm and soybeans hulls at 0.1 ppm without prejudice to future filing. On November 3, 1995, Bayer Corp. requested that the pesticide petition (4F4309) be further amended by reducing the tolerances for fat of cattle, goats, hogs, horses and sheep from 5.0 ppm to 1.0 ppm; and withdrawing the tolerance for milkfat. An increased milkfat tolerance was established in (59 FR 53130, May 31, 1995) at 2.5 ppm (reflecting 0.08 ppm in whole milk) which adequately addresses secondary tolerances for this proposed action. This amendment also addressed EPA's preference for the sweet corn tolerance to be expressed in terms of kernel plus cob with husk removed (K+CWHR).

There were no comments or requests to the advisory committee received in response to the initial and amended notices of filing.

The data base for cyfluthrin is essentially complete. Data lacking but desirable are a new 21–day subchronic dermal study, an acute neurotoxicity study in rats, and a 90–day neurotoxicity study in rats and a dermal sensitization study on the end use product Baythroid 2. Although these data are lacking, the Agency believes it has sufficient toxicity data to support the proposed tolerance, and these missing data will not significantly change its risk assessment. In a letter dated April 20, 1995, Bayer Corp. has committed to submit the 21–day subchronic dermal study by June 1996, the acute neurotoxicity study by December 1996, and the 90–day neurotoxicity study by May 1997. On October 12, 1995, Bayer Corp submitted to the Agency a dermal sensitization study on Baythroid 2.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicology data submitted in support of the tolerance include:

1. A 12–month chronic feeding study in dogs with a no-observed-effect level (NOEL) of 4 mg/kg/day. The lowest-effect level (LEL) for this study is established at 16 mg/kg/day, based on slight ataxia, increased vomiting, diarrhea, and decreased body weight.

2. A 24–month chronic feeding/carcinogenicity study in rats with a NOEL of 2.5 mg/kg/day and LEL of 6.2 mg/kg/day, based on decreased body weights in males, decreased food consumption in males, and inflammatory foci in the kidneys in females. There were no carcinogenic effects observed under the conditions of the study.

3. A 24–month carcinogenicity study in mice. There were no carcinogenic effects observed under the conditions of the study.

4. An oral developmental toxicity study in rats with a maternal and fetal NOEL of 10 mg/kg/day (highest dose tested). An oral developmental toxicity study in rabbits with a maternal NOEL of 20 mg/kg/day and a maternal LEL of 60 mg/kg/day, based on decreased body weight gain and decreased food consumption during the dosing period. A fetal NOEL of 20 mg/kg/day and a fetal LEL of 60 mg/kg/day were also observed in this study. The LEL was based on increased resorption and increased postimplantation loss.

5. A developmental toxicity study in rats by the inhalation route of administration with a maternal NOEL of 0.0011 mg/L and an LEL of 0.0047 mg/L, based on reduced mobility, dyspnea, piloerection, ungroomed coats, and eye irritation. The fetal NOEL is 0.00059 mg/L, and the fetal LEL is 0.0011 mg/L, based on sternal anomalies and increased incidence of runts. A second developmental toxicity study in rats by the inhalation route of administration is currently under review. The issue of whether cyfluthrin directly induces fetotoxicity under these conditions is unresolved at this time.

6. A 3–generation reproduction study in rats with a systemic NOEL of 2.5 mg/kg/day and a systemic LEL of 7.5 mg/kg/day due to decreased parent and pup body weights. The reproductive NOEL and LEL are 7.5 mg/kg/day and 22.5 mg/kg/day, respectively.

7. Mutagenicity tests, including several gene mutation assays (reverse mutation and recombination assays in bacteria and a Chinese hamster ovary(CHO)/HGPRT assay); a structural chromosome aberration assay (CHO/

sister chromatid exchange assay); and an unscheduled DNA synthesis assay in rat hepatocytes. All tests were negative for genotoxicity.

8. A metabolism study in rats showing that cyfluthrin is rapidly absorbed and excreted, mostly as conjugated metabolites in the urine, within 48 hours. An enterohepatic circulation was observed.

A chronic dietary exposure/risk assessment was performed for cyfluthrin using a Reference Dose (RfD) of 0.025 mg/kg bwt/day, based on a NOEL of 50 ppm (2.5 mg/kg bwt/day) and an uncertainty factor of 100. The NOEL was determined in a 2-year rat feeding study. The endpoint effects of concern were decreased body weights in males and inflammation of the kidneys in females at the LEL of 150 ppm (6.2 mg/kg/day). The current estimated dietary exposure for the overall U.S. population resulting from established tolerances is 0.003403 mg/kg bwt/day, which represents 13.6% of the RfD. The current action will increase exposure to 0.003766 mg/kg/bwt/day of 15% of the RfD. The current estimated dietary exposure for the subgroup population exposed to the highest risk, non-nursing infants less than 1 year old, is 0.010622 mg/kg bwt/day, which represents 42.5% of the RfD. The current action will increase exposure to 0.010850 mg/kg bwt/day or 43.4% of the RfD. Generally speaking, EPA has no cause for concern if total residue contribution for published and proposed tolerances is less than the RfD. EPA concludes that the chronic dietary risk of cyfluthrin, as estimated by the dietary risk assessment, does not appear to be of concern.

Because there was a sign of developmental effects seen in animal studies, the Agency used the rabbit developmental toxicity study with a maternal NOEL of 20 mg/kg/day to assess acute dietary exposure and determine a margin of exposure (MOE) for the overall U.S. population and certain subgroups. Since the toxicological end-point pertains to developmental toxicity, the population group of concern for this analysis is women aged 13 and above, the subgroup which most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOEL to the exposure. For this analysis the Agency calculated the MOE for women ages 13 and above to be 666. Generally speaking, MOE's greater than 100 for data derived from animal studies are regarded as showing no appreciable risk.

The metabolism of cyfluthrin in plants and livestock for this use is adequately understood. The residue of concern is cyfluthrin per se. An adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the *Pesticide Analytical Manual*, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703–305–5232.

On August 5, 1988, EPA issued a conditional registration and time-limited tolerance for cyfluthrin for use on cottonseed with an expiration date of October 31, 1991 (see the Federal Register of August 15, 1988 (53 FR 30676)). On November 12, 1992, the conditional registration was amended and extended to November 15, 1993, and the tolerance on cottonseed extended to November 15, 1994 (see the Federal Registers of October 20, 1993 (58 FR 54094) and February 22, 1994 (54 FR 9411)). On November 15, 1993, EPA amended the conditional registration on cottonseed by extending the expiration date to November 15, 1996, and extending the time-limited tolerance to November 15, 1997. The conditional registration was amended and extended to allow time for submission and evaluation of additional environmental effects data. In order to evaluate the effects of cyfluthrin on fish and aquatic organisms and its fate in the environment, additional data were required to be collected and submitted during the period of conditional registration. Such requirements included a sediment bioavailability and toxicity study and a small-plot runoff study that must be submitted to the Agency by July 1, 1996. To be consistent with the conditional registration and extension on cottonseed, the Agency is proposing to issue a conditional registration with an expiration date of November 15, 1996, and establish a time-limited tolerance on alfalfa (forage and hay), sunflowers (forage and hay) and livestock animal commodities with an expiration date of November 15, 1997, to cover residues expected to result from use during the period of conditional registration.

On July 5, 1995 EPA issued a conditional registration and time-limited tolerance for cyfluthrin use in or on corn (field, pop and sweet) in combination with another insecticide *O*-[2-(1-dimethylethyl)-5-pyrimidinyl]*O*-ethyl-*O*-(1-methylethyl)phosphorothioate with an expiration date of July 5, 1999. See the Federal Register of Wednesday, July 5, 1995 (60 FR 34874). Because of the lack of mammalian neurotoxicity studies for the other insecticide, the Agency limited the period of time that the regulation is to be in effect to allow time for submission and evaluation of the data. To be consistent with the conditional registration and the regulation for establishing a time-limited tolerance for the other insecticide, the Agency is issuing a time-limited tolerance with an expiration date of July 5, 1999 for residues of cyfluthrin in or on sweet corn, forage and fodder.

Residues remaining in or on the above commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term of and in accordance with provisions of the conditional registration.

There are currently no actions pending against the continued registration of this chemical.

The pesticide is considered useful for the purposes for which it is sought and capable of achieving its intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 would protect the public health and that use of the pesticide in accordance with the tolerance established by amending 40 CFR part 186 would be safe. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a

statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 4F4309/R2216] (including objections and hearing requests 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.

Written objections and hearing requests, identified by the document control number [PP 4F4309/R2216], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk 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 any objections and hearing requests 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 objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements, or establishing or raising food additive regulations 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: March 6, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

a. The authority citation of part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.436, the table to paragraph (a) by adding alphabetically entries for ''alfalfa, forage'', ''alfalfa, hay'', ''sunflower, forage'', and ''sunflower, seed'', and by revising the entries ''cattle, fat'', ''goats, fat'', ''hogs, fat'', ''horses, fat'', and ''sheep, fat'', and in paragraph (b) by revising the table, to read as follows:

§ 180.436 Cyfluthrin, tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration date
*	* *	* *
Alfalfa, forage	5.00	Nov. 15, 1997
alfalfa, hay	10.00	Do.
Cattle, fat	1.00	Do.
Goats, fat	1.00	Do.
Hogs, fat .	1.00	Do.
Horses, fat	1.00	Do.
Sheep, fat	1.00	Do.
Sunflower, forage ..	1.00	Do.
Sunflower, seed	0.02	Do.
*	* *	* *

(b) * * *

Commodity	Parts per million	Expiration date
Corn, forage and fodder, field and pop	0.01	July 5, 1999
Corn, grain, field and pop	0.01	Do.
Corn, sweet, (K+CWHR)	0.05	Do
Corn, sweet, fodder	15.00	Do.
Corn, sweet, forage	30.00	Do.

[FR Doc. 96–6250 Filed 3–14–96, 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 5F4549/R2213; FRL–5354–6]

RIN 2070–AB78

Pesticide Tolerances for Dimethenamid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This regulation establishes tolerances for residues of the herbicide,

dimethenamid, 1(R,S)-2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on the raw agricultural commodities (RAC's) dry beans, peanut hay, peanut nutmeat, sorghum grain fodder, sorghum grain forage, sorghum grain, sweetcorn (kernels plus cobs with husks removed), sweetcorn fodder (stover) and sweetcorn forage at 0.01 parts per million (ppm). This regulation to establish the maximum permissible level of residues of the herbicide in or on these commodities was requested in a petition submitted by Sandoz Agro Inc.

DATES: This regulation becomes effective March 15, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 5F4549/R2213], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copies of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 5F4549/R2213]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Theresa A. Stowe, Acting Team Leader, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–305–5540), e-mail: stowe.terri@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register on November 15, 1995 (60 FR 57419) which announced that Sandoz Agro Inc., 1300 East Touhy Avenue, Des Plaines, IL 60018, had submitted a pesticide petition (PP 5F4549) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR 180.464 to establish tolerances for the residues of the herbicide, dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on the RAC's grain sorghum, sorghum fodder and sorghum forage at 0.1 ppm, dry beans seed and dry bean straw/hay at 0.1 ppm, sweetcorn (kernel plus cob with husk removed), sweetcorn forage, sweetcorn dry grain, and sweet corn fodder (stover) at 0.01 ppm, and peanut nutmeat, peanut forage, peanut hay and peanut hulls at 0.02 ppm. Sandoz Agro Inc. subsequently amended the chemical name to read 1(R,S)-2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethylthien-3-yl)acetamide and corrected the RAC's to read dry beans, peanut hay, peanut nutmeat, sorghum grain fodder, sorghum grain forage, sorghum grain, sweetcorn (Kernels plus cobs with husks removed), sweetcorn fodder (stover) and sweetcorn forage, and lowered the peanut tolerances to 0.01 ppm. There were no comments or requests for referral to an advisory committee received in response to this notice of filing.

The data submitted in the petitions and all other relevant material have been evaluated. The toxicology data considered in support of the tolerances include:

1. A rat acute oral study with an LD_{50} of 2.14 grams (g)/kilogram (kg), males, 1.30 g/kg females and 1.57 g/kg combined.

2. A 13–week rat feeding study with a no-observed effect level (NOEL) of 500 ppm (33.5 milligrams (mg)/kg/day for males and 40.1 mg/kg/day for females).

3. A 13–week dog feeding study with a NOEL of 100 ppm (2.5 mg/kg/day).

4. A 21 day rabbit dermal study with a NOEL of 50 mg/kg/day with minimal to mild skin irritation at all dose levels.

5. A carcinogenicity study in mice with no carcinogenic effects observed at any dose level under the conditions of the study and a systemic NOEL of 300 ppm (40.8 mg/kg/day for males and 40.1 mg/kg/day for females) and a systemic lowest effect level (LEL) of 1,500 ppm (205 mg/kg day for males and 200 mg/kg/day for females) based on statistically significantly elevated corrected liver and kidney weights.

6. A rat chronic feeding/carcinogenicity study with a systemic NOEL of 100 ppm (5 mg/kg/day) and a LEL of 700 ppm (35 mg/kg/day) due to decreased food efficiency and histopathology findings. Under the conditions of the study limited evidence of carcinogenicity was observed based on a statistically significant increasing trend for benign liver cell tumors in male rats and a statistically significant increasing trend for ovarian tubular adenomas in female rats. A reevaluation of the ovarian neoplasia data indicated that there was no statistically significant, dose-related, trend in the incidence of ovarian tumors in female rats. This study is discussed further below.

7. A 1 year dog feeding study with a NOEL of 250 ppm (9.6 mg/kg/day) and with a LEL = 1,250 ppm (49 mg/kg/day) based on clinical chemistry and histological changes in liver.

8. A two generation reproduction study in rats with a parental and reproductive NOEL of 500 ppm (36 mg/kg/day for males and 40 mg/kg/day for females) and a parental and reproductive LEL of 2,000 ppm (150 mg/kg/day for males and 160 mg/kg/day for females) based on reduction of body weight and of food consumption, and increases in liver weights (parental toxicity), and significant reductions in pup weight during lactation (reproductive toxicity).

9. A rabbit developmental study with a maternal NOEL of 37.5 mg/kg/day and a LEL of 75 mg/kg/day based on decreased body weight and food consumption, and with a developmental NOEL of 75 mg/kg and a LEL of 150 mg/kg/day based on a low incidence of abortion/premature delivery and angulation of the hyoid alae.

10. A rat developmental study with a maternal NOEL of 50 mg/kg/day and a LEL of 215 mg/kg/day based on excess salivation, increased liver weight and reduced body weight gain and food consumption, and with a developmental NOEL of 215 mg/kg/day and a LEL of 425 mg/kg/day based on increased resorptions.

11. An Ames mutagenicity assay negative with and without activation, an *in vitro* chromosomal aberration using

CHO cells weakly positive with and without activation, a negative mouse bone marrow micronucleus study, a negative BALB/3T3 cell transformation study, an unscheduled DNA synthesis in rat hepatocytes unequivocally positive in one *in vitro* assay, negative in another *in vitro* assay, and negative in one *in vivo* study, and a positive dominant lethal study.

To further evaluate the mutagenic mechanism a heritable translocation study is due March 15, 1998 (2 years after the date of the conditional registration of dimethenamid for dry beans, peanuts, sorghum and sweet corn under the Federal Insecticide Fungicide and Rodenticide Act [FIFRA]).

The Agency has concluded that the available data provide limited evidence of carcinogenicity for dimethenamid in rats and has classified the pesticide as a Category C carcinogen (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the Federal Register in 1986 (51 FR 33992). Based on a review by the Health Effects Division Peer Review Committee for Carcinogenicity of the Office of Pesticide Programs, the Agency has determined that a quantitative risk assessment is not appropriate for the following reasons:

1. The tumor response was primarily due to a significantly increasing trend for benign and/or malignant liver tumors in males and due to a significantly increasing trend for ovarian tubular adenomas in female rats. A re-evaluation of the ovarian neoplasia data indicated that there was not a statistically significant, dose-related, trend in the incidence of ovarian tumors in female rats.

2. The chemical was not carcinogenic when administered in the diet to mice at dose levels ranging from 30 to 3,000 ppm.

Based on this evidence, EPA concludes that dimethenamid poses at most a negligible cancer risk to humans and that for purposes of risk characterization the Reference Dose (RfD) approach should be used for quantification of human risk. Residues of dimethenamid will not concentrate in processed sweet corn, peanut, sorghum or dry bean commodities and a food or feed additive regulation is not required for dimethenamid.

The standard risk assessment approach of using the RfD based on systemic toxicity was applied to dimethenamid. Using a 100-fold safety factor and the NOEL of 5 mg/kg bwt/day determined by the most sensitive species from the 2-year rat feeding study, the RfD is 0.05 mg/kg/day. The Anticipated Residue Contribution (ARC) from the established tolerances is 0.000071 mg/kg bwt/day and utilizes 0.14 percent of the RfD for the overall U. S. population. The proposed use on dry beans, peanuts, sorghum and sweetcorn would contribute an additional 0.000005 mg/kg/day, raising the ARC to 0.000076 mg/kg bwt/day, or 0.152 percent of the RfD. For exposure of the most highly exposed subgroups in the population, Non-nursing infants (1 year old), the TMRC is 0.000341 mg/kg/day and utilizes 0.683 percent of the RfD.

Tolerances have been previously established for dimethenamid in corn grain, corn fodder, corn forage and soybeans. The metabolism of dimethenamid in plants is adequately understood. There is no reasonable expectation of secondary residues occurring in meat, milk and eggs from the tolerance associated with this petition.

An adequate analytical method, gas chromatography, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the *Pesticide Analytical Manual*, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 1130A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–305–5937).

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [PP 5F4549] (including any comments and data submitted electronically). 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 may 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 any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the

Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects In 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

Dated: March 6, 1996.

Peter Caulkins,

Director, Registration Division, Office of Pesticide Porgrams.

Therefore, chapter I of title 40 Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.464, by revising the introductory paragraph and amending the table by alphabetically adding the raw agricultural commodities, ''corn, sweet, fodder (stover)'' and ''corn, sweet, forage,'' ''corn, sweet (Kernels plus cobs with husks removed),'' ''dry beans,'' ''peanut hay,'' ''peanut nutmeat,'' ''sorghum grain fodder,'' ''sorghum grain forage,'' ''sorghum grain'', to read as follows:

§ 180.464 Dimethenamid, 1(R,S)-2-chloro-N-[(1-methyl-2methoxy)ethyl]-N-(2,4-dimethylthien-3-yl)-acetamide; tolerance for residues.

Tolerances are established for residues of the herbicide dimethenamid, 1(*R,S*)-2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethylthien-3-yl)-acetamide in or on the following raw agricultural commodities:

Commodities	Parts per million
Beans, dry	0.01
* * * *	*
Corn, sweet, fodder (stover)	0.01
Corn, sweet, forage	0.01
Corn, sweet (Kernels plus cobs with husks removed)	0.01
Peanut, hay	0.01
Peanut, nutmeat	0.01
Sorghum, grain, fodder	0.01
Sorghum, grain, forage	0.01
Sorghum, grain	0.01
* * * *	*

[FR Doc. 96–6251 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 271

[FRL–5439–3]

Illinois; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Illinois has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter RCRA). Illinois' revisions consist of provisions contained in rules promulgated between July 1, 1989, and June 30, 1993, otherwise known as Non-HSWA Cluster VI, HSWA Cluster II, and RCRA Clusters I–III. These requirements are listed in Section B of this document. The Environmental Protection Agency (EPA) has reviewed Illinois' application and has made a decision, subject to public review and comment, that Illinois' hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Illinois' hazardous waste program revisions, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). Illinois' application for program revision is available for public review and comment.

EFFECTIVE DATE: Final authorization for Illinois shall be effective May 14, 1996 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Illinois' program revision application must be received by the close of business April 15, 1996.

ADDRESSES: Copies of Illinois' program revision application are available for inspection and copying, from 9 a.m. to 4 p.m., at the following addresses: Illinois Environmental Protection Agency, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794–9276, contact: Todd Marvel (217) 524–5024; U.S. EPA, Region 5, DR–7J, 77 W. Jackson Blvd., Chicago, Illinois 60604, contact: Gary Westefer (312) 886–7450. Written comments should be sent to Mr. Gary Westefer, Illinois Regulatory Specialist, U.S. EPA, Office of RCRA, DR–7J, 77 W. Jackson Blvd., Chicago, Illinois 60604, phone 312/886–7450.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Westefer, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Phone: 312/886–7450.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter HSWA) allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

In accordance with 40 CFR 271.21, revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to

EPA's regulations in 40 CFR Parts 124, 260–266, 268, 270, 273 and 279.

B. Illinois

Illinois initially received final authorization for its program effective January 31, 1986. (51 FR 3778, January 30, 1986). Illinois received authorization for revisions to its program effective on March 5, 1988 (53 FR 126, January 5, 1988), April 30, 1990 (55 FR 7320, March 1, 1990), June 3, 1991 (56 FR 13595, April 3, 1991), and August 15, 1994 (59 FR 30525, June 14, 1994). On June 30, 1994, Illinois submitted a program revision application for additional program approvals. Today, Illinois is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Illinois' application, and has made an immediate final decision that Illinois' hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Illinois. The public may submit written comments on EPA's immediate final decision up until April 15, 1996.. Copies of Illinois' application for program revision are available for inspection and copying at the locations indicated in the ''Addresses'' section of this notice.

Approval of Illinois' program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On May 14, 1996, Illinois will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

Federal requirement	Analogous state authority
Financial Responsibility—Settlement Agreement Amendment, June 26, 1990, 55 FR 25976.	Rule 35 IAC 725.213, Effective June 17, 1991.
Delay of Closure Period for Hazardous Waste Management Facilities, August 14, 1989, 54 FR 33376–33398.	Rules 35 IAC 703 Appendix A; 724.113; 724.212; 724.213; 724.242; 725.113; 725.212; 725.213; 725.242, Effective August 22, 1990.
Mining Waste Exclusion I, September 1, 1989, 54 FR 36592–36642	Rules 35 IAC 721.103; 721.104, Effective August 22, 1990.
Testing and Monitoring Activities, September 29, 1989, 54 FR 40260–40269.	Rules 35 IAC 720.111; 720 Appendix A, Effective August 22, 1990.
Changes to Part 124 not Accounted for by Present Checklists, January 4, 1990, 55 FR 00246–00248.	Rules 35 IAC 705.121; 705.128; 705.141; 705.163; 705.182, Effective September 25, 1990.
Mining Waste Exclusion II, January 23, 1990, 55 FR 02322–2354	Rules 35 IAC 720.110, 721.104, 722.123, Effective September 25, 1990.
Modification of F019 Listing, February 14, 1990, 55 FR 5340–5342	Rule 35 IAC 721.131, Effective September 25, 1990.
Testing and Monitoring Activities; Technical Corrections, March 9, 1990, 55 FR 8948–8950.	Rules 35 IAC 720.110; 721 Appendix B, 721 Appendix Table C, Effective September 25, 1990.
Toxicity Characteristic Revisions, March 29, 1990, 55 FR 11798–11877 [1] as amended June 29, 1990, 55 FR 26986–26998 [1].	Rules 35 IAC 721.104; 721.108; 721.124; 721.130; 721 Appendix B; 724.401; 725.321; 725.373; 728 Appendix A, Effective September 25, 1990.
Listing of 1, 1-Dimethylhydrazine Production Wastes, May 2, 1990, 55 FR 18496–18506 [1].	Rules 35 IAC 721.132; 721 Appendix C; 721 Appendix G, Effective June 17, 1991.
Criteria for Listing Toxic Wastes; Technical Amendment, May 4, 1990, 55 FR 18726.	Rule 35 IAC 721.111, Effective June 17, 1991.
HSWA Codification Rule, Double Liners; Correction, May 9, 1990, 55 FR 19262–19264 [1].	Rules 35 IAC 724.321; 724.401, Effective June 17, 1991.
Land Disposal Restrictions for Third Third Scheduled Wastes, June 1, 1990, 55 FR 22520–22720 [1].	Rules 35 IAC 721.120; 721.121; 721.122; 721.123; 721.124; 721.131; 721.133; 721 Appendix G; 722.111; 722.134; 724.113; 724.329; 724.356; 724.381; 724.412; 724.416; 725.101; 725.113; 725.329; 725.356; 725.381; 725.412; 725.416; 728.101; 728.102; 728.103; 728.107; 728.108; 728.109; 728.135; 728.140; 728.141; 728.142; 728.143; Section 728 Table A; Table B; Table C; Table D; Table E, Effective June 9, 1992.
Organic Air Emmission Standards for Process Vents and Equipment Leaks, June 21, 1990, 55 FR 25454–25519 [1].	Rules 35 IAC 703.183; 703.210; 703.211; 720.111; 721.106; 724.113; 724.115; 724.173; 724.177; 724.930; 724.931; 724.932; 724.933; 724.934; 724.935; 724.936; 724.950; 724.951; 724.952; 724.953; 724.954; 724.955; 724.956; 724.957; 724.958; 724.959; 724.960; 724.961; 724.962; 724.963; 724.964; 724.965; 725.113; 725.115; 725.173; 725.177; 725.930; 725.931; 725.932; 725.933; 725.934; 725.935; 725.950; 725.951; 725.952; 725.953; 725.954; 725.955; 725.956; 725.957; 725.958; 725.959; 725.960; 725.961; 725.962; 725.963; 725.964, Effective June 17, 1991.
Toxicity Characteristic; Hydrocarbon Recovery Operations, October 5, 1990, 55 FR 40834–40837 [1] as amended February 1, 1991, 56 FR 3978 [1] and April 2, 1991, 56 FR 13406–13411 [1].	Rule 35 IAC 721.104, Effective September 30, 1991 and June 9, 1992.
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludges Listings (FO37 and FO38), November 2, 1990, 55 FR 46354–46397 [1] as amended December 17, 1990, 55 FR 51707 [1].	Rules 35 IAC 721.131; 721 Appendix G, Effective September 30, 1991.
Wood Preserving Listings, December 6, 1990, 55 FR 50450–50490 [1] ...	Rules 35 IAC 703.212; 720.110; 721.104; 721.131; 721.135; 721 Appendix C; 721 Appendix G; 721 Appendix H; 722.134; 724.290; 724.670; 724.671; 724.672; 724.673; 724.674; 724.675; 725.290; 725.540; 725.541; 725.542; 725.543; 725.544; 725.545, Effective September 30, 1991.
Toxicity Characteristic; Chlorofluorocarbon Refrigerants, February 13, 1991, 56 FR 5910–5915 [1].	Rule 35 IAC 721.104, Effective June 9, 1992.

Federal requirement	Analogous state authority
Burning of Hazardous Waste in Boilers and Industrial Furnaces, February 21, 1991, 56 FR 07134–7240 [1].	Rules 35 IAC 703.155; 703.157; 703.208; 703.232; 703.280; 720.110; 720.111; 721.102; 721.104; 721.106; 724.212; 724.440; 725.212; 725.213; 725.440; 726.200; 726.201; 726.202; 726.203; 726.204; 726.205; 726.206; 726.207; 726.208; 726.209; 726.210; 726.211; 726.212; 726 Appendix A; 726 Appendix B; 726 Appendix C; 726 Appendix D; 726 Appendix E; 726 Appendix F; 726 Appendix G; 726 Appendix H; 726 Appendix I; 726 Appendix J, Effective June 9, 1992.
Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, February 25, 1991, 56 FR 7567–7568.	Rules 35 IAC 721.133; 721 Appendix G, Effective June 9, 1992.
Organic Air Emmission Standards for Process Vents and Equipment Leaks; Technical Amendment, April 26, 1991, 56 FR 19290 [1].	Rules 35 IAC 703.210; 703.211; 724.930; 724.933; 724.935; 724.952; 725.113; 725.173; 725.930; 725.934; 725.935; 725.952; 725.964, Effective June 9, 1992.
Administrative Stay for KO69 Listing, May 1, 1991, 56 FR 19951	Rule 35 IAC 721.132, Effective June 9, 1992.
Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings, May 13, 1991, 56 FR 21955–21960.	Rule 35 IAC 721.131, Effective June 9, 1992.
Mining Waste Exclusion III, June 13, 1991, 56 FR 27300–27330	Rule 35 IAC 721.104, Effective June 9, 1992.
Wood Preserving Listings, June 13, 1991, 56 FR 27332–27336	Rules 35 IAC 721.131; 724.672, 725.543, Effective June 9, 1992.
Wood Preserving Listings; Technical Corrections, July 1, 1991, 56 FR 30192–30198 [1].	Rules 35 IAC 703.212; 721.104; 721.135; 722.134; 724.670; 724.671; 724.672; 724.673; 724.674; 724.675; 725.540; 725.543, Effective November 6, 1992.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I, July 17, 1991, 56 FR 32688–32852 [1].	Rules 35 IAC 703.157; 703.208; 703.232; 703.280; 703 Appendix A; 721.103; 721.106; 725.470; 726.140; 726.200; 726.202; 726.203; 726.204; 726.206; 726.207; 726.208; 726.209; 726.210; 726.212; 726 Appendix A; 726 Appendix B; 726 Appendix C; 726 Appendix D; 726 Appendix G; 726 Appendix H; 726 Appendix I; 726 Appendix J, Effective November 6, 1992.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II, August 27, 1991, 56 FR 42504–42517 [1].	Rules 35 IAC 721.102; 725.212; 725.213; 726.200; 726.202; 726.203; 726.204; 726.208; 726.209; 726.210; 726.211; 726.212; 726 Appendix I; 726 Appendix K; 726 Appendix L, Effective November 6, 1992.
Exports of Hazardous Waste; Technical Correction, September 4, 1991, 56 FR 43704–43705 [1].	Rules 35 IAC 722.153; 722.156, Effective November 6, 1992.
Toxicity Characteristics Revisions; Technical Corrections, July 10, 1992, 57 FR 30657–30658 [1].	Rules 35 IAC 721.104; 725.401, Effective November 22, 1993.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, August 25, 1992, 57 FR 38558–38566 [1].	Rules 35 IAC 720.110; 720.120; 721.102; 724.101; 725.101; 726.200; 726.201; 726.203; 726.204; 726.206; 726.207; 726.208; 726.212; 726 Appendix I, Effective November 22, 1993.
Burning of Hazardous Waste in Boilers and Industrial Furnaces, Amendment IV, September 30, 1992, 57 FR 44999–45001 [1].	Rules 35 IAC 726.203; 726 Appendix I, Effective November 22, 1993.
Toxicity Characteristic Revision; TCLP Correction, November 24, 1992, 57 FR 55114–55117 [1] as amended February 2, 1993, 58 FR 6854 [1].	Rule 35 IAC 721 Appendix B, Effective November 22, 1993 and April 21, 1994.
Wood Preserving; Revisions to Listings and Technical Requirements, December 24, 1992, 57 FR 61492–61505 [1].	Rules 35 IAC 721.131; 724.670; 724.671; 724.672; 724.673; 725.540; 725.541; 725.542; 725.543, Effective November 22, 1993.

[1] Indicates HSWA Provision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization, and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on January 31, 1986, March 5, 1988, April 30, 1990, June 3, 1991, and August 15, 1994, the effective dates of Illinois' final authorizations for the RCRA base program and for the subsequent program revisions, respectively.

This authorization includes authorization for Illinois to impose certain land disposal prohibitions. Under 40 CFR 268.6, EPA may grant petitions of specific duration to allow land disposal of certain hazardous wastes provided certain criteria are met. States that have authority to impose land disposal prohibitions may ultimately be authorized under RCRA Section 3006 to grant petitions for such exemptions. However, EPA is currently requiring that these petitions be handled at EPA Headquarters. It should be noted that Illinois has its own procedures for petition submission and approval to allow land disposal of a prohibited waste. Therefore, the petitioner must satisfy both Federal and Illinois requirements, and be granted approval by both EPA and the State.

Illinois is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Illinois' application for program revisions meets all of the statutory and regulatory requirements established by RCRA, and its amendments. Accordingly, Illinois is granted final authorization to operate its hazardous waste program as revised. Illinois now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Illinois also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013, and 7003 of RCRA.

D. Incorporation by Reference

EPA incorporates by reference, authorized State programs in 40 CFR Part 272, to provide notice to the public of the scope of the authorized program in each State. Incorporation by reference of the Illinois program will be completed at a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Illinois' hazardous waste program referenced in today's notice will result in annual costs of $100 million or more. EPA's approval of State programs generally have a deregulatory effect on the private sector because once it is determined that a State hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR Part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved State may exercise. Such flexibility will reduce, not increase, compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved State hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270. Once EPA authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved State program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Illinois' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 23, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–6242 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5440–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the Lewisburg Dump Site from the National Priorities List (NPL); Correction.

SUMMARY: This document contains a correction to the announcement of the deletion of the Lewisburg Dump site in Lewisburg, Tennessee, from the National Priorities List (NPL), which was published Wednesday, February 21, 1996 at 61 FR 6556.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Femi Akindele, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347–7791, extension 2042.

SUPPLEMENTARY INFORMATION:

Background

The site deleted was the Lewisburg Dump Superfund Site, Lewisburg, Tennessee. For the reasons set out in the preamble, 40 CFR part 300 must be amended.

Need for Correction

As published, the table from which the site was to be deleted was incorrectly stated.

Correction of Publication

Accordingly, the publication on February 21, 1996, of the deletion of the

Lewisburg Dump Superfund Site, which was the subject of FR Doc. 96–3581 is corrected as follows:

On page 6556, in the third column, in Part 300, Appendix B—[Amended], paragraph 2, ''Table 2'' is corrected to read ''Table 1.''

Dated: March 6, 1996.

Phyllis P. Harris,

Acting Deputy Regional Administrator, Region 4.

[FR Doc. 96–6241 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 10

RIN 3067–AC41

Environmental Considerations/ Categorical Exclusions

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Correction of final rule.

SUMMARY: This document corrects the final rule published on Monday, February 5, 1996 (61 FR 4227). The rule relates to environmental considerations and exclusions from environmental impact statements or assessments.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Rick Shivar, Office of Policy and Regional Operations, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, or telephone (202) 646–3610.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency published a final rule on February 5, 1996 that clarified the statutory exclusions and revised the categorical exclusions that normally would not require an environmental impact statement or environmental assessment. As published the final rule omitted the statutory reference to section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act in revising 44 CFR 10.8(c)(1).

Accordingly, the final rule published as FR Doc. 96–2087 on February 5, 1996 61 FR 4227, is corrected as follows:

On page 4230, in the third column, § 10.8(c)(1) is corrected to read as follows:

§ 10.8 Determination of requirement for environmental review.

* * * * *

(c) * * *

(1) Action taken or assistance provided under sections 402, 403, 407, or 502 of the Stafford Act; and

* * * * *

Dated: March 7, 1996.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 96–6081 Filed 3–14–96; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 96–92]

Delegated Authority to Process Mutually Exclusive ITFS Applications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On February 8, 1996, President Clinton signed into law the Telecommunications Act of 1996 (Telecom Act).[1] Section 403(c) of the Telecom Act authorizes the Commission to delegate to the staff the authority to process and grant from among mutually exclusive applications for Instructional Television Fixed Service (ITFS) facilities. By this Order, we exercise this option and delegate such authority to the staff.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Paul R. Gordon, Mass Media Bureau, Policy and Rules Division, Legal Branch, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 96–92, adopted March 7, 1996 and released March 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Synopsis of Order

1. *Statutory Authority to Delegate.* Mutually exclusive applications for new ITFS facilities currently are resolved by the full Commission in a paper hearing by means of a point accumulation system. After calculating each applicant's score based on information submitted with the application, the Commission determines which applicant is the most qualified to serve the public interest. Because this is considered a comparative hearing, the processing staff has been statutorily barred from granting or denying any of the applications. Pursuant to the Administrative Procedure Act (''APA''), the Commission itself must preside in the taking of evidence in a comparative hearing, or it may delegate this function to either (1) one or more members of the Commission, or (2) one or more administrative law judges.[2] However, the APA adds that these limitations do not supersede agency delegation authority that is designated under statute.[3]

2. Section 403(c) of the Telecom Act authorizes such a delegation with regard to the processing of ITFS applications, expressly superseding the APA's restrictions. It replaces the last sentence of Section 5(c)(1) of the Communications Act of 1934 with the following:

> Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code [the APA], of any hearing to which such section applies.[4]

3. *Exercise of the Commission's Delegation Authority.* We believe that delegation to the staff of ITFS processing authority will speed the processing of ITFS applications, complementing recent rule changes designed to increase ITFS processing efficiency. Moreover, the Commission has conducted a substantial number of hearings for ITFS facilities over the past several years and has developed a large body of case law addressing a variety of issues. Educational applicants, their wireless cable lessees, and Commission staff have become familiar with the many legal and technical issues involved in applying for ITFS facilities. Thus, we believe that delegation will serve the public interest by increasing processing efficiency and allowing more rapid authorization and initiation of service to the public.

Administrative Matters. Because this action involves rules of agency organization and procedure, the notice

[1] Public Law No. 104–104, 110 Stat. 56 (1996).

[2] 5 U.S.C. 556(b)(2) and (3).

[3] 47 U.S.C. 556(b) (''this subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for or designated under statute'').

[4] To be codified at 47 U.S.C. 155(c)(1).

and comment requirements of the APA, 5 U.S.C. 553(b)(A), are inapplicable.

Ordering Clauses. Therefore, *it is ordered* That the authority to conduct a hearing and to select from among mutually exclusive applications in the Instructional Television Fixed Service is delegated to the staff.

4. It is further ordered That, pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, §§ 0.151 and 0.283 of the Commission's Rules, 47 CFR 0.151, 0.283, are amended as set forth below.

5. Because this involves an internal procedural matter not affecting the substantive rights of any entity, and in order to expedite the processing of ITFS applications, it is further ordered that for good cause shown pursuant to the provisions of 5 U.S.C. 553(d)(3), this *Order* shall become effective immediately upon publication in the Federal Register.

6. It is further ordered That this proceeding is terminated.

7. Authority for the adoption of the foregoing revision is contained in sections 5(b), 5(c)(1), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 155(b), 155(c)(1), and 303(r).

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 0 of title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C 155, 225, unless otherwise noted.

2. Section 0.151 is revised to read as follows:

§ 0.151 Functions of the Office.

The Office of Administrative Law Judges consists of a Chief Administrative Law Judge, an Assistant Chief Administrative Law Judge, and as many other Administrative Law Judges qualified and appointed pursuant to the requirements of section 11 of the Administrative Procedure Act as the Commission may find necessary. It is responsible for hearing and conducting all adjudicatory cases designated for any evidentiary adjudicatory hearing other than those designated to be heard by the Commission en banc, those designated to be heard by one or more members of the Commission, and those involving the authorization of service in the Instructional Television Fixed Service. The Office of Administrative Law Judges is also responsible for conducting such other hearings as the Commission may assign.

3. Section 0.283 is amended by revising paragraph (a)(9)(i) to read as follows:

§ 0.283 Authority delegated.

* * * * *

(a) * * *

(9) * * *

(i) Mutually exclusive applications not in the Instructional Television Fixed Service, including renewal and construction permit applications, involving non-routine hearing issues.

* * * * *

[FR Doc. 96–6208 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR PART 73

[FCC 96–90]

Implementation of Sections 202(a) and 202(b)(1) of the Telecommunications Act of 1996 (Broadcast Radio Ownership)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends the Commission's Rules to eliminate current national multiple radio ownership restrictions and to relax local radio ownership restrictions (the ''radio contour overlap'' rule). This action is necessary to conform the current rules to section 202(a) and 202(b)(1) of the Telecommunications Act of 1996.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Alan Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 96–92, adopted March 7, 1996 and released March 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Synopsis of Order

By this Order, the Commission amends 47 CFR 73.3555 of its rules to conform to provisions of the Telecommunications Act of 1996 (''Telecom Act''), Public Law 104–104, 110 Stat. 56 (1996), signed into law by President Clinton on February 8, 1996. Sections 202(a) and 202(b)(1) of the Telecom Act direct the Commission to revise § 73.3555 of its Rules (47 CFR 73.3555) regarding the national multiple radio ownership rule and the local radio ownership (''radio contour overlap'') rule.

National Radio Station Ownership

2. Section 73.3555(e)(1)(i) of the Commission's Rules generally limits commercial radio ownership on a nationwide basis to no more than 20 AM stations and no more than 20 FM stations. Section 73.3555(e)(1)(i) further provides that an entity may have an attributable but noncontrolling interest in an additional 3 AM and 3 FM stations that are small business controlled or minority-controlled. Section 202(a) of the Telecom Act directs the Commission to ''modify Section 73.3555 of its regulations * * * by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity nationally.'' Accordingly, § 73.3555(e)(1)(i) will be deleted and the remainder of the rule will be modified to reflect the changes directed by this section of the Telecom Act.

Local Radio Station Ownership

3. The local radio ownership (''radio contour overlap'') rule, 47 CFR 73.3555(a)(1), defines the limits of local commercial radio ownership by a single entity. Section 73.3555(a)(1) permits ownership of up to three commercial radio stations, no more than two of which may be in the same service, in radio markets with 14 or fewer stations, provided that the owned stations, if other than a single AM and FM station combination, represent less than 50 percent of the stations in the market; in markets with 15 or more commercial radio stations, ownership of up to two AM and two FM commercial radio stations is generally permitted if the combined audience share of the commonly owned stations does not exceed 25 percent in the market. Section 202(b)(1) of the Telecom Act requires the Commission to ''revise section 73.3555(a) of its regulations * * * to provide that—

(A) In a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio

stations, not more than 5 of which are in the same service (AM or FM);

(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.''

Accordingly, § 73.3555(a)(1) and 73.3555(a)(3)(iii) of the Commission's Rules will be revised to reflect the changes directed by section 202(b)(1) of the Telecom Act, as set forth below. Section 73.3555(a)(3)(iii), which defines a radio station's ''audience share'' for multiple radio ownership under the current rules, will be deleted.

Other Matters

4. This Order is limited to revising our rules as directed by sections 202(a) and 202(b)(1) of the Telecom Act. Section 202(b)(2) of the Telecom Act provides that notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio broadcast stations if the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation. The implementation of this particular provision will be addressed in a subsequent Notice of Proposed Rule Making. Of course, entities are not precluded from asking the Commission to apply this statutory exception in a particular case before any rule changes.

5. The following aspects of our radio ownership rules, as set forth in previous Commission decisions, are unaffected by the Telecom Act and will remain in effect: (1) We will continue to define the relevant radio market as the area encompassed by the principal community contours (*i.e.*, predicted or measured 5 mV/m for AM stations and predicted 3.16 mV/m for FM stations) of the mutually overlapping stations proposing to have common ownership. (2) The number of stations in the market will continue to be determined based on the principal community contours of all commercial stations whose principal community contours overlap or intersect the principal community contours of the commonly-owned and mutually overlapping stations. (3) The stations that will be included within the market will continue to be operating commercial full-power stations, including daytimers and foreign stations. We will continue to exclude non-commercial stations, translators and stations that are not operational. However, the principal community contours of any non-operational commercial stations that are part of a transaction or that are commonly-owned by a party to the transaction will continue to be used to define the radio market and to count the number of stations in the radio market. We also note that time brokerage agreements between two stations in the same market that involve more than 15 percent of the brokered station's programming per week will continue to be treated as if the brokered station is owned by the brokering station for purposes of the radio local ownership rules.

Administrative Matters

We are revising these rules without providing prior public notice and comment because the rules being modified are mandated by the applicable provisions of the Telecom Act. We find that notice and comment procedures are unnecessary, and that this action therefore falls within the ''good cause'' exception of the Administrative Procedure Act. See 5 U.S.C. 553(b)(B) (notice requirements inapplicable ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest''). The rule changes adopted in this Order do not involve discretionary action on the part of the Commission. Rather, they simply implement provisions of the Telecom Act that direct the Commission to revise its rules according to specific terms set forth in the legislation.

Ordering Clause

7. Accordingly, *it is ordered* that pursuant to sections 202(a) and 202(b)(1) of the Telecommunications Act of 1996, and to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), part 73 of the Commission's Rules, 47 CFR part 73, is amended as set forth below. We note that § 73.3555(e) is also being amended in the Order implementing certain of the Telecom Act's broadcast television ownership provisions that is being released simultaneously with this Order.[1] For clarity, the amendments to § 73.3555(e) are being set forth only in that proceeding. The rules will become effective upon publication of this Order in the Federal Register.

[1] Order, FCC 96–91 (released March 8, 1996).

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334.

2. Section 73.3555 is amended by revising paragraph (a) to read as follows:

§ 73.3555 Multiple ownership.

(a)(1) *Radio contour overlap rule.* No license for an AM or FM broadcasting station shall be granted to any party (including all parties under common control) if the grant of such license will result in overlap of the principal community contour of that station and the principal community contour of any other broadcasting station directly or indirectly owned, operated, or controlled by the same party, except that such license may be granted in connection with a transfer or assignment from an existing party with such interests, or in the following circumstances:

(i) In a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(ii) In a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(iii) In a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(iv) In a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

(2) Overlap between two stations in different services is permissible if neither of those two stations overlaps a third station in the same service.

(3) (i) Where the principal community contours of two radio stations overlap and a party (including all parties under common control) with an attributable ownership interest in one such station brokers more than 15 percent of the broadcast time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraph (a)(1) of this section. This limitation shall apply regardless of the source of the brokered programming supplied by the party to the brokered station.

(ii) Every time brokerage agreement of the type described in paragraph (a)(3)(i) of this section shall be undertaken only pursuant to a signed written agreement that shall contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities, including specifically control over station finances, personnel and programming, and by the brokering station that the agreement complies with the provisions of paragraph (a) of this section.

(4) For purposes of this paragraph (a):

(i) The ''principal community contour'' for AM stations is the predicted or measured 5 mV/m groundwave contour computed in accordance with § 73.183 or § 73.186 and for FM stations is the predicted 3.16 mV/m contour computed in accordance with § 73.313.

(ii) The number of stations in a radio market is the number of commercial stations whose principal community contours overlap, in whole or in part, with the principal community contours of the stations in question (i.e., the station for which an authorization is sought and any station in the same service that would be commonly owned whose principal community contour overlaps the principal community contour of that station). In addition, if the area of overlap between the stations in question is overlapped by the principal community contour of a commonly owned station or stations in a different service (AM or FM), the number of stations in the market includes stations whose principal community contours overlap the principal community contours of such commonly owned station or stations in a different service.

(iii) ''Time brokerage'' is the sale by a licensee of discrete blocks of time to a ''broker'' that supplies the programming to fill that time and sells the commercial spot announcements in it.

* * * * *

[FR Doc. 96–6207 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–U

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47 CFR Part 73

[FCC 96–91]

Implementation of Sections 202(c)(1) and 202(e) of the Telecommunications Act of 1996 (National Broadcast Television Ownership and Dual Network Operations)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On February 8, 1996, President Clinton signed into law the Telecommunications Act of 1996 (Telecom Act).[1] Section 202(c)(1) of the Telecom Act directs the Commission to revise its Rules regarding the national television station multiple ownership rules. Section 202(e) of the Telecom Act directs us to revise the Commission's Rules with respect to dual networking operations. With this *Order,* we conform our rules to these particular provisions of the Telecom Act.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Alan Aronowitz, Mass Media Bureau, Policy and Rules Division, Legal Branch, (202) 418–2130, or via the Internet at aaronowi@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* FCC 96–91, adopted March 7, 1996 and released March 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Order

1. *National Ownership Limitations.* Currently, § 73.3555(e)(1)(ii) through (iii), (2) and (3) of the Commission's Rules set forth the rules and operative definitions regarding national ownership limitations applicable to commercial television stations. The rule prohibits entities from having an attributable ownership or other cognizable interest in more than 12 such stations, except that such an interest in two additional stations is permitted, for a total of 14 stations, if these additional stations are minority-controlled. The rule also prohibits an entity from having an attributable ownership or other cognizable interest in a station if it would result in that entity having such an interest in television stations with an aggregate national audience reach exceeding 25 percent (an additional 5 percent reach is permitted, for a total of 30 percent, if it is derived from minority-controlled stations). For purposes of calculating this aggregate audience reach under the rules, UHF stations are attributed with only 50 percent of their audience reach (the ''UHF discount''),[2] and stations which are primarily satellite operations are generally not counted (the ''satellite exception'').[3]

2. Section 202(c)(1) of the Telecom Act directs the Commission to ''modify its rules for multiple ownership set forth in § 73.3555 of its regulations * * *.

(A) by eliminating the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide; and

(B) by increasing the national audience reach limitation for television stations to 35 percent.''

Section 73.3555(e) of the Commission's Rules will be revised to reflect the changes directed by section 202(c)(1) of the Telecom Act, as set forth below.

3. The Telecom Act is silent with respect to the UHF discount and the satellite station exception, both of which are incorporated in the definition of ''national audience reach'' set forth in § 73.3555(e)(3). The UHF discount and satellite exception are matters presently under consideration in the Commission's outstanding proceeding reviewing its television broadcast ownership rules,[4] and any rule modifications with respect to these matters will be addressed, as appropriate, in that proceeding. In calculating the national audience reach in the interim, therefore, the UHF discount and the satellite exception, as set forth in our current rules, will continue to apply. However, any entity which acquires stations during this interim period and which complies with the 35 percent audience reach limitation only by virtue of one or both of these two provisions will be subject to the outcome in the pending television

[1] Pub. L. 104–104, 110 Stat. 56 (1996).

[2] 47 CFR 73.3555(e)(3)(i).

[3] 47 CFR 73.3555(e)(3)(ii).

[4] See TV Ownership Further Notice, 60 FR 6490 (February 2, 1995).

ownership proceeding concerning these issues. We accordingly retain and redesignate § 73.3555(e)(3) (i) and (ii). The remainder of the definitions set forth in paragraph (e)(3) (defining ''minority'' and ''minority-controlled'') will be removed to conform to the rule changes mandated by the Telecom Act.

4. *Dual Network Operations.* Section 73.658(g) of the Commission's Rules, commonly known as the ''dual network'' rule, currently prohibits television stations from affiliating with a network organization that maintains more than one network of television stations unless the networks are not operated simultaneously or unless there is no substantial overlap in the territory served by the group of stations comprising each such network. For purposes of the current rule, a network organization is any entity that simultaneously broadcasts an identical program to two or more interconnected stations.

5. Section 202(e) of the Telecom Act instructs the Commission to ''revise Section 73.658(g) of its regulations * * * to permit a television broadcast station to affiliate with a person or entity that maintains 2 or more networks of television broadcast stations unless such dual or multiple networks are composed of—

(1) Two or more persons or entities that, on the date of enactment of the Telecommunications Act of 1996, are 'networks' as defined in section 73.3613(a)(1) of the Commission's regulations [in essence, this refers to the NBC, CBS, ABC, and Fox television networks] * * *; or

(2) any network described in paragraph 1 and an English-language program distribution service that, on such date, provides 4 or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service) [in essence, this refers to the UPN or WB television networks].'' Section 73.658(g) of the Commission's Rules will be modified to conform to section 202(e) of the Telecom Act, as set forth below.

Administrative Matters

6. We are revising these rules without providing prior public notice and an opportunity for comment because the rules being modified are mandated by the applicable provisions of the Telecom Act. We find that notice and comment procedures are unnecessary, and that this action therefore falls within the ''good cause'' exception of the Administrative Procedure Act (''APA'').[5] The rule changes adopted in this Order do not involve discretionary action on the part of the Commission. Rather, they simply implement provisions of the Telecom Act that direct the Commission to revise its rules according to specific terms set forth in the legislation.

Ordering Clause

7. Accordingly, IT IS ORDERED that pursuant to section 202(c)(1) and 202(e) of the Telecommunications Act of 1996, and to section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), part 73 of the Commission's Rules, 47 CFR part 73, is amended as set forth below. The rules are effective upon publication of this Order in the Federal Register.[6]

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334.

2. Section 73.658(g) is revised to read as follows:

§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

* * * * *

(g) *Dual network operation.* A television broadcast station may affiliate with a person or entity that maintains two or more networks of television broadcast stations *unless* such dual or multiple networks are composed of:

(1) Two or more persons or entities that, on February 8, 1996, were ''networks.'' For the purposes of this paragraph, the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation; or

(2) Any network described in paragraph (g)(1) of this section and an English-language program distribution service that, on February 8, 1996, provided four or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

* * * * *

3. Section 73.3555(e) is revised to read as follows:

§ 73.3555 Multiple ownership.

* * * * *

(e)(1) *National television multiple ownership rule.* No license for a commercial TV broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors, directly or indirectly, owning, operating or controlling, or having a cognizable interest in TV stations which have an aggregate national audience reach exceeding thirty-five (35) percent.

(2) For purposes of this paragraph (e):

(i) *National audience reach* means the total number of television households in the Arbitron Area of Dominant Influence (ADI) markets in which the relevant stations are located divided by the total national television households as measured by ADI data at the time of a grant, transfer or assignment of a license. For purposes of making this calculation, UHF television stations shall be attributed with 50 percent of the television households in their ADI market. Where the relevant application forms require a showing with respect to audience reach and the application relates to an area where Arbitron ADI market data are unavailable, then the applicant shall make a showing as to the number of television households in its market. Upon such a showing, the Commission shall make a determination as to the appropriate audience reach to be attributed to the applicant.

(ii) *TV broadcast station or TV station* excludes stations which are primarily satellite operations.

* * * * *

[FR Doc. 96–6206 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–P

[5] *See* 5 U.S.C. 553(b)(B) (notice requirements inapplicable ''when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest'').

[6] *See id.* at section 553(d) (rules that relieve a restriction may be effective less than 30 days after publication in the Federal Register).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB97

Endangered and Threatened Wildlife and Plants; Reclassification of Mirabilis Macfarlanei (MacFarlane's Four-O'clock) From Endangered to Threatened Status

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) makes a final determination to reclassify the plant *Mirabilis macfarlanei* (MacFarlane's four-o'clock) to threatened status. The species was listed as an endangered species in 1979. This action is due to improvement in the status of the species and the discovery of additional populations. *Mirabilis macfarlanei* now occurs in three geographically isolated units occupying approximately 163 acres in Idaho and Oregon. The Snake River unit has approximately 4,752 plants occupying about 25 acres. The Salmon River unit has approximately 1,660 plants occupying 68 acres. The recently discovered Imnaha River unit has approximately 800 plants on 70 acres. In addition, the species meets the minimum goals for reclassification identified in the *Mirabilis macfarlanei* Recovery Plan approved in 1985. The determination made under the Endangered Species Act of 1973 (Act), as amended, is based on a review of all information currently available for the species. The change in classification reflects an improvement in the species' status. Reclassification will not significantly alter the protection afforded this species under the Act.

EFFECTIVE DATE: April 15, 1996.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. Parenti, Botanist, at the above Boise address (208) 334–1931.

SUPPLEMENTARY INFORMATION:

Background

Mirabilis macfarlanei is a member of the four-o'clock family (Nyctaginaceae). It is a perennial plant with a stout, deep-seated taproot. The stems are freely branched, swollen at the nodes so that the plant forms hemispherical clumps 6 to 12 decimeters (24 to 47 inches (in.)) in diameter. The leaves are opposite, somewhat succulent, green above and glaucescent (with a whitish or bluish cast) below. Lower leaves are orbicular or ovate-deltoid in shape and become progressively smaller toward the top of the stem. The inflorescence is a four- to seven-flowered cluster subtended by an involucre. The flowers are striking due to their large size, up to 25 millimeters (mm) (1 in.) long and 25 mm (1 in.) wide, and showy magenta color. They are funnel-form in shape with a widely expanding limb. The flower is five-merous, with five stamens (male reproductive structures) generally exerted. Flowering is from early May to early June, with mid-May usually being the peak flowering period. *Mirabilis macfarlanei* is most closely related to *M. greenei* Wats. of the Klamath (Siskiyou) region of California and Oregon (Constance and Rollins 1936).

Mirabilis macfarlanei was named for Ed MacFarlane, a boatman on the Snake River, who pointed out the plant along the Oregon side of the Snake River to Rollins and Constance in 1936. These botanists described the species later that year (Constance and Rollins 1936). Records indicate MacFarlane's four-o'clock was collected along the Snake River (Hells Canyon area) in 1939. In 1947, a second population was discovered near the confluence of Skookumchuck Creek and the Salmon River in Idaho by R.J. Davis. The Salmon River plants are geographically isolated from the Snake River plants. Futile searches for *M. macfarlanei* from 1947 to the mid-1970's led botanists to consider that the species was possibly extinct. In May 1977, two plants were found within the Snake River unit along the Snake River near Cottonwood Landing on the Oregon side of the river. Within the Salmon River unit, 25 plants were rediscovered in 1979 on 10 acres of Bureau of Land Management (Bureau) land (Heidel 1979) at Skookumchuck and 700 plants were discovered in 1980 on 45 acres of Bureau land in the Long Gulch area above the Salmon River, Idaho County, Idaho.

Since 1983, 6,485 additional plants have been located on approximately 108 acres, bringing the total number to 7,212 plants inhabiting approximately 163 acres in three disjunct areas. The Snake River unit has about 4,752 plants occupying about 25 acres of habitat that occurs along 6 miles of Hells Canyon on the banks and canyonland slopes above the Snake River, Idaho County, Idaho and Wallowa County, Oregon. Known localities within the Snake River unit include Cottonwood Landing, Island Gulch, Kurry Creek, Kurry Creek-West Creek divide, Mine Gulch, Tyron Bar, and West Creek. The Salmon River unit has about 1,660 plants occupying approximately 68 acres along 18 miles of banks and canyonland slopes above the Salmon River, Idaho County, Idaho. Known localities within the Salmon River unit include Coddy Draw, Henry's Gulch, John Day Creek, Long Gulch, Lucas Draw, Lucile Caves, Skookumchuck Creek, and Slicker Bar. The third unit, the Imnaha, was discovered in 1983 and has approximately 800 plants on 70 acres of habitat along 3 miles of canyonland slopes above the Imnaha River, Wallowa County, Oregon. Within the Imnaha unit, only two localities, Fence Creek and Buck Creek, have been documented. The plants generally occur on talus slopes within canyonland corridors above the three rivers.

Within the Snake River unit, all of the plants occur on Nez Perce and Wallowa/Whitman National Forests lands. A majority of the plants along the Snake River are within the Hells Canyon National Recreation Area. Within the Salmon River unit, 935 plants (56 percent) inhabit 13 acres of private lands with the remaining plants and 55 acres of habitat managed by the Bureau (Coeur d'Alene District). Within the Imnaha unit, approximately 300 plants (37 percent) are located on 10 acres of private lands. The remaining 500 plants occur on 60 acres of Wallowa/Whitman National Forest lands above Fence Creek, Wallowa County, Oregon.

No other species of *Mirabilis* occurs in Hells Canyon and no member of the regional flora resembles MacFarlane's four-o'clock. This large plant is easily recognized by its large, green, succulent leaves that are oppositely arranged on the stem. The cluster of large, magenta flowers is unlike anything else in the flora of the northwest (Moseley, Idaho Department of Fish and Game, pers. comm. 1992). The generic name, *Mirabilis*, in Latin means wondrous.

Mirabilis taxa in the United States are mainly restricted to the southwest. It is unusual for *Mirabilis macfarlanei* to exist as far north as west-central Idaho and northeast Oregon. It is conjectured that the genus expanded northward during a period of warmer climate. As regional climates cooled, the species or its predecessor was, in essence, ''trapped'' (Stebbins 1979). The Salmon River and Snake River canyonland areas in northeastern Oregon and west-central Idaho provide some of the longest growing seasons and mildest winter conditions of the intermountainous region east of the Oregon Cascades. *Mirabilis macfarlanei* is found on talus slopes in canyonland corridors where

the climate is regionally warm and dry with precipitation occurring mostly in a winter-to-spring period. If *M. macfarlanei* originated in northern areas during a warmer period and its path of retreat with cooling climate was cut off by less favorable conditions, the warmer climate (such as near Riggins, Idaho, in the Salmon River Canyon) would explain the restricted distribution of the species.

Mirabilis macfarlanei generally occurs as scattered plants on open, steep (50 percent) slopes of sandy soils, generally having west to southeast aspects. However, during the 1984 season, a locality was discovered having an east aspect. Talus rock underlies the soil in which the plants are rooted. There are a variety of soils that support this plant throughout its range. Sandy soils support some of the Long Gulch populations of *M. macfarlanei* and are quite susceptible to displacement by wind and water erosion.

The plant community is in a transition zone between *Agropyron spicatum-Poa sandbergii* and *Rhus glabra-Agropyron spicatum,* consisting of *Agropyron spicatum* (bluebunch wheatgrass), *Bromus tectorum* (cheatgrass), *Sporobolus cryptandrus* (sand dropseed), *Phacelia heterophylla* (scorpion weed), *Lomatium dissectum* (desert parsley), *Celtis reticulata* (hackberry), *Rhus glabra* (smooth sumac), *Achillea millefolium* (yarrow), and *Chrysothamnus nauseosus* (rabbit bush) (Daubenmire 1970, Franklin and Dyrness 1973). Near Long Gulch, Idaho, an *Agropyron spicatum-Poa sandbergii* community existed. The latter species have, however, been replaced by the alien *Bromus tectorum* (Johnson 1984).

From 1936 to 1979, *Mirabilis macfarlanei* was known only from two localities with approximately 27 individual plants. Subsequently, *M. macfarlanei* was added to the Federal List of Endangered and Threatened Plants on October 26, 1979 (44 FR 61912), as an endangered species.

At the time *Mirabilis macfarlanei* was listed as endangered, estimates of population size (number of plants) were based upon sparse data. Prior to listing, several professional and amateur botanists actively searched for the plant in several canyonlands in Idaho and Oregon without success. Many botanists believed that the plant was extremely rare and perhaps extirpated from likely habitat in Idaho and Oregon.

The 1985 *Mirabilis macfarlanei* Recovery Plan includes the following primary sub-objective for delisting the species:

Mirabilis macfarlanei may be considered recovered when a total of 10 colonies (5 colonies, or any combination of 10, in each of 2 geographically distinct and isolated populations) are protected and managed to assure their continued existence * * *

Specific criteria for reclassifying from endangered to threatened:

Mirabilis macfarlanei may be considered for reclassification to threatened when four of the colonies in each population meet the above criteria. The objectives will be reevaluated should new colonies be discovered.

Recovery objectives have been reevaluated based on additional information developed since 1985. For example, extant colonies (defined as localities currently occupied by plants) that are being protected and managed meet the criteria for reclassification from endangered to threatened. An updated Recovery Plan will be prepared reflecting data obtained since the plant was listed in 1979.

Previous Federal Action

Federal action on this plant taxon began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document *Mirabilis macfarlanei* was considered to be endangered.

On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant taxa including *Mirabilis macfarlanei.* The list of 1,700 species was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, Federal Register publication. General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, Federal Register publication (43 FR 17909). On October 26, 1979, the Service published a final rule listing *M. macfarlanei* as an endangered species (44 FR 61912). A recovery plan was developed and approved for *M. macfarlanei* on March 27, 1985.

Summary of Comments and Recommendations

In the August 26, 1993, proposed rule to reclassify the species from endangered to threatened (58 FR 45085) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final decision. Appropriate State agencies, county governments, city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comments were published in the Idaho Statesman on October 11, 1993, and in the Portland Oregonian and the Lewiston Tribune on October 12, 1993.

One written comment was received during the 60-day comment period following publication of the proposed rule. The comment was submitted by the U.S. Forest Service. They were in favor of the reclassification of the species to threatened status and provided information considered in developing this rule.

Summary of Factors Affecting the Species

After a through review and consideration of all information available, the Service has determined that *Mirabilis macfarlanei* should be reclassified from an endangered to a threatened species. Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for reclassifying species on the Federal lists. A species may be listed or reclassified as endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Mirabilis macfarlanei* Const. and Roll. (MacFarlane's four-o'clock) are as follows:

A. *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.* During a 1991 plant survey, threats identified in the Hells Canyon National Recreation Area portion of the Snake River unit included resumed prospecting or mining near the ''Mine Gulch'' population of *Mirabilis macfarlanei.* Habitat destruction due to vehicular travel along with surface disturbance associated with mining could contribute to degradation of *M. macfarlanei* habitat. For example, the widening of Road No. 493 in the vicinity of the Kurry Creek population

has caused surface disturbance with talus material falling on plants.

Livestock damage was also observed during the 1991 survey, but appeared to minimally impact the species. There was increased weedy invasion in many areas because of previous grazing activity (Mancuso and Moseley 1991). At the present time, all of the populations of *Mirabilis macfarlanei* within the Snake River unit are on habitat managed by the U.S. Forest Service and are directly or indirectly protected through the section 7 consultation process.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Increased collecting pressure is a foreseeable problem if the sites become known. The collection of plant material could easily cause extirpation from many of the localities, especially those with small numbers of plants. Other species of *Mirabilis* are cultivated and prized as garden ornamentals. *Mirabilis macfarlanei* is an attractive plant with a very showy magenta flower. For example, Hitchcock *et al.* (1973) recommended that the ''rather attractive'' plants are worth a try in the wild garden. Statements such as this could invoke actions that place the species in further jeopardy. The Cottonwood Landing population occurs adjacent to a hiking trail along the Snake River in Hells Canyon. Although the population is still unprotected from casual collecting, there has been no apparent decline of the species at this location. Because Hells Canyon is designated as a National Recreation Area, there is a potential for increased recreational use of the river trail and potential collecting.

C. *Disease or Predation.* Mule deer prefer forbs and some utilization of *Mirabilis macfarlanei* has been observed (Johnson 1984). In the West-Kurry Divide 3 location, some feeding has apparently been done by deer and rabbits, but the plant population is not particularly threatened by this use (Mancuso and Moseley 1991).

Studies were conducted by the Bureau between 1981 and 1983 to determine the effect of domestic grazing on *Mirabilis macfarlanei* in the Long Gulch and John Day sites of Idaho (Johnson 1984). The study included both ''cattle grazing'' and ''no cattle grazing'' treatments. The no cattle grazing treatment utilized a 45-acre exclosure at Long Gulch. The grazing treatment was on Bureau land between Long Gulch and John Day Creek. Both of these areas were historically used for fall and spring range by sheep and cattle, with the primary grazing period during spring from late March to early June. This coincides with the peak flowering time for *M. macfarlanei* from mid-May to early June. Bureau studies indicate that *M. macfarlanei* can be adversely affected by high grazing pressure and concentrations of livestock (Johnson 1984). However, moderate to light grazing has caused no detrimental impact to the plant (Johnson, pers. comm. 1992). Tueller and Tower (1979) observed that exclosure sites previously subjected to heavy livestock grazing and now provided protection produce high yields of native forbs and grasses.

During the period of human settlement, much of the Salmon River area was heavily grazed by domestic livestock, with a decline in overall range condition and climax vegetation. Within the Salmon River evolutionary unit, grazing is no longer a threat to populations of *Mirabilis macfarlanei.* The Bureau has reduced grazing on Bureau lands to a point where the plant species is not adversely affected. In the John Day locale, one private landowner has reduced grazing in a cooperative effort to protect *M. macfarlanei* plants and habitat (Riley, Bureau of Land Management, pers. comm. 1992).

In the Snake River evolutionary unit, the Forest Service has two grazing allotments in the vicinity where *Mirabilis macfarlanei* plants are found. However, one allotment in the Tyron Bar area has not been grazed for 12 years. The Hells Canyon National Recreation Area is currently soliciting scoping comments on a proposal to stock portions of the allotment. The proposal will exclude that habitat in the vicinity of the Tyron Bar *M. macfarlanei* populations. In the second allotment, the area in the vicinity of the West-Kurry Divide 1, 2, and 3, *M. macfarlanei* populations are not suitable for grazing due to the lack of water. The Forest Service has also initiated a policy that requires removing domestic livestock from *M. macfarlanei* sites before the plant starts to grow in April (Stein, pers. comm. 1992). Currently, general range improvement has taken place in the canyonlands in the Snake River evolutionary unit where *M. macfarlanei* occurs, due primarily to improved livestock grazing management.

As described in the 1979 final rule that listed *Mirabilis macfarlanei* as an endangered species, at least two species of fungi had been observed on the vegetative parts of the plants in Idaho. Current information neither mentions nor references fungi species affecting plant parts. The fungus identified as a threat in the 1979 listing has not since been reported.

Insect depredation has also been shown to be detrimental to *Mirabilis macfarlanei.* A lepidopteran (*Lithariapteryx spp.*) has been discovered feeding on the buds and leaves of *M. macfarlanei* (Baker 1983). Examination of some of the nearly opened flowers revealed ovaries, as well as other floral and vegetative parts, eaten away. In addition, a second group of depredating insects, including at least two species of spittle bugs, was so abundant on certain plants as to cause the complete dieback of all emergent plant parts (Baker 1983). In many cases, there was significant plant stunting where sizeable numbers of spittle bugs were observed (Baker 1983, 1984). However, these effects have not been observed at all sites.

D. *The inadequacy of existing regulatory mechanisms.* Habitat Management Plans (HMP's) have been developed and implemented for *Mirabilis macfarlanei* for three populations on Bureau lands in the Salmon River unit to provide protection and quality habitat for the species. The three HMP's are for the Long Gulch, Skookumchuck, and Lucile Caves areas in Idaho County, Idaho, along the Salmon River. The Long Gulch HMP area, which includes 45 acres, was fenced in 1981 to exclude cattle grazing. Monitoring studies that began in 1983 used the fenced area to evaluate and compare an ungrazed area with nearby grazed lands. The Skookumchuck HMP, which includes 28 acres located between Highway 95 and the old highway, was developed primarily as a protection mechanism against herbicide use in the immediate area. In addition, seasonal monitoring of *M. macfarlanei* is conducted within the Skookumchuck HMP to determine the trends of the small population. The Lucile Caves HMP was developed to monitor the success of transplanting plants in the area and for use as a research area. Monitoring of the Lucile Caves transplant project indicates that the transplanted population has remained static.

Under the Oregon Endangered Species Act (ORS 564.100–564.135) and pursuant regulations (OAR 603, Division 73), the Oregon Department of Agriculture has listed *Mirabilis macfarlanei* as endangered (OAR 603–73–070). The Oregon statute contains prohibitions against the ''take'' of State-listed plants, but there are exceptions and significant enforcement difficulties. Some private landowners in Idaho and Oregon have cooperated with the Bureau and the Forest Service to assist in the conservation of *M. macfarlanei.*

Currently, Idaho has not passed legislation to protect endangered or

threatened plants or developed an official State list of such plants.

E. *Other natural or manmade factors affecting its continued existence.* In Bureau studies conducted between 1981 and 1983, no *Mirabilis macfarlanei* plants were noted on moderately sloped areas (less than 20 percent) that were historically used by livestock for loafing and concentration areas (Johnson 1984). Cattle trampling damage to plants was observed in the grazed area, but appeared limited. The presence of livestock trampling the ground and causing soil erosion is also a potential hazard. However, minimal erosion was noticed in the Hells Canyon population locales, even though there was some grazing (Mancuso and Moseley 1991).

Within the Snake River unit, most of the natural communities in the Pittsburg portion of Hells Canyon have been degraded by the invasion of alien weedy plant species, many of them annuals. Most of this degradation has been aggravated by many years of intensive domestic grazing pressures (Mancuso and Moseley 1991). Undesirable plants, especially *Bromus tectorum,* have increased as a result of grazing (Johnson 1984). Because of alien species invasion, the germination, growth, and development of native plants are often impeded. Continued invasion by weedy alien species has been an ongoing problem for *Mirabilis macfarlanei* and many other native plant species. As a result, the inhibition of *M. macfarlanei* growth and development has been noted (Baker 1983).

The Service initiated a study to determine the allelopathic (interference) effects of *Bromus tectorum* on *Mirabilis jalapa* (Peruvian four-o'clock). Preliminary studies indicate that *B. tectorum* inhibits the germination, growth, and development of *M. jalapa* plants. Other selected plants used in laboratory studies showed inhibition similar to *M. jalapa* (Owen 1984). Field studies indicate *M. macfarlanei* is adversely affected when growing with dense stands of *B. tectorum* (Baker 1983; Johnson, pers. comm. 1992). This is especially true during the earlier stages of growth.

To date, low seed viability for *Mirabilis macfarlanei* has been reported; therefore, viable sexual propagation may be very low (Johnson 1984). Low seed viability reduces genetic variability within the species. Primary reproduction of *M. macfarlanei* is rhizomatous and plants are long-lived. Because *M. macfarlanei* plant populations appear to be static after 12 years of data collection, ''natural'' increases are probably very slow or non-existent.

Past indiscriminate herbicide spraying has had adverse effects on the small number of *Mirabilis macfarlanei* plants located within the Salmon River unit downslope from Highway 95. In addition, using insecticides for insect control is detrimental to many of the known pollinators of this species, including several genera of bees. Species of the *Bombus* genus are apparently the most effective pollinators.

Remaining localities of *Mirabilis macfarlanei* with small numbers of plants are subject to elimination from stochastic events. Species that are reduced to very small numbers may also be subject to the additional threat of poor genetic viability. Small numbers may reduce the ability of *M. macfarlanei* to adapt to environmental changes or events that may cause their extirpation. However, the smaller populations reported at several localities in recent surveys have been characterized as vigorous to extremely vigorous.

In summary, this species has been the focus of a 12-year recovery program, and has benefitted from management and research accomplishments. The amount of occupied habitat that has been located in Idaho and Oregon since listing represents a three-fold increase due to new discoveries. In addition, the number of known individuals has increased two hundred sixty-fold from 27 plants, when listed, to approximately 7,212 plants by 1991.

In 1990 and 1991, permanent plots for monitoring population trends of *Mirabilis macfarlanei* were established at Tyron Bar above the Snake River in Oregon, at Fence Creek on the Imnaha River in Oregon, and West Creek on the Snake River in Idaho. A population model to determine population viability will be developed (Kaye *et al.* 1990). Specific parameters monitored in Idaho and Oregon include: (1) numbers at each census plot, (2) cover, (3) average height, (4) flowering plants, (5) phenology, (6) climatic data, (7) deer-, elk-, and cattle-use days, and (8) other vegetation trend data. Permanent photo trend plots, belt transects, and permanent plots have also been established.

Further recovery efforts for *Mirabilis macfarlanei* will depend on cooperation with private landowners. The Service is exploring opportunities for land exchanges to acquire private lands for public ownership to further protect the species.

The discovery of additional localities on public lands, better grazing management, and the static condition of existing populations in both the Salmon River and the Snake River evolutionary units have reduced the degree of threat to this species. The Service is encouraged by the discovery of the third *Mirabilis macfarlanei* unit, with the possibility of more locales being found within each of these evolutionary units. The commitment by the Forest Service to monitor and evaluate *M. macfarlanei* population trends on their lands has benefited the species. The Forest Service has revised livestock grazing practices at locations within the Snake River unit containing *M. macfarlanei,* so that the plants can germinate and develop. Continued monitoring, research, and revised grazing management activities by the Bureau at locations containing *M. macfarlanei* in the Salmon River evolutionary unit has also provided the Service with valuable information on *M. macfarlanei.* The cooperation between the land management agencies and private landowners has also added to the effort to conserve *M. macfarlanei* plants and habitat.

In reviewing the progress toward recovery that this species has made since listing, the Service concludes that *Mirabilis macfarlanei* is no longer in danger of extinction throughout all or a significant portion of its range. However, due to a lack of plant recruitment in some areas, insect predation, alien plant invaders, and several small populations, the Service finds that delisting this species is not warranted at this time. In light of the foregoing threats, *M. macfarlanei* may still be likely to become endangered in the foreseeable future without further site protection and improved recruitment.

The Service has carefully assessed the best scientific and commercial information available regarding past, present, and future threats faced by the species in finalizing this rule. Based on this evaluation, this rule reclassifies *Mirabilis macfarlanei* from endangered to threatened status. Critical habitat is not being designated for reasons discussed in the ''Critical Habitat'' section of this rule.

Critical Habitat

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is listed. The Service finds that designation of critical habitat is not prudent for *Mirabilis macfarlanei* at this time. Service regulations (50 CFR 424.12(a)(1) state that designation of critical habitat is not prudent when one or both of the following situations

exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

As discussed under Factor B above, *Mirabilis macfarlanei* is vulnerable to taking and vandalism. Landowners have been alerted to the presence of the plant without the publication of precise maps and descriptions of critical habitat in the Federal Register, as required in a proposal for critical habitat. The publication of such precise maps and descriptions would increase the vulnerability of these plants to take or vandalism and, therefore, could contribute to their decline. As noted previously, *M. macfarlanei* is an attractive plant with beautiful magenta flowers. Protection of the species' habitat will continue to be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for *M. macfarlanei* is not prudent at this time because such designation would increase the species' vulnerability to vandalism and collecting and because it is unlikely to aid in the conservation of the species.

Effects of the Rule

This rule changes the status of *Mirabilis macfarlanei* from endangered to threatened and formally recognizes that this species is no longer in imminent danger of extinction throughout a significant portion of its range. Reclassification to threatened does not significantly alter the protection afforded this species under the Act.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any listed species. The consultation and other requirements of section 7 apply equally to endangered and threatened species. Most populations of *Mirabilis macfarlanei* occur on Forest Service or Bureau lands. These agencies have been involved in recovery and section 7 consultation activities for this species since it was listed as endangered in 1979 and are likely to remain involved. Recovery activities are not expected to diminish since the primary objective of the recovery strategy is delisting of the species. The recovery plan will be revised to reflect information acquired since the original plan was approved in 1985.

Certain prohibitions that apply to endangered plants do not apply to plants listed as threatened. The removal and reduction to possession of *Mirabilis macfarlanei* from areas under Federal jurisdiction continues to be prohibited under section 9 of the Act and 50 CFR 17.71. However, the malicious damage or destruction of endangered plants on areas under Federal jurisdiction, and the removal, cutting, digging up or damage or destruction of endangered species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law will no longer constitute a violation of section 9. Take of *M. macfarlanei* will continue to be prohibited pursuant to the State of Oregon's Endangered Species Act. The import, export, and interstate and foreign commerce prohibitions of section 9 continue to apply to *M. macfarlanei.*

Pursuant to section 10 of the Act and 50 CFR 17.72, permits may be issued to carry out otherwise prohibited activities involving threatened plants. Such permits are available for scientific purposes and to enhance the propagation or survival of endangered and threatened species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes and policy of the Act. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063; FAX 503/231–6243).

This reclassification is not an irreversible commitment on the part of the Service. Reclassifying *Mirabilis macfarlanei* to endangered would be possible should changes occur in management, habitat, or other factors that alter the present threats to the species' survival and recovery.

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Boise Field Office (See **ADDRESSES** above).

Author: The primary author of this final rule is Dr. Andrew F. Robinson Jr., U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, Oregon 97266 (503/231–6179).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.12 [Amended]

2. Section 17.12(h) is amended by revising the entry in the ''Status'' column for *Mirabilis macfarlanei* under ''FLOWERING PLANTS'' to ''T'' instead of ''E'', and the entry in the ''When listed'' column to read ''66,581''.

Dated: November 9, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–6213 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 031196E]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Ocean Perch in the Central Aleutian District

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the specification of Pacific ocean perch in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 11, 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 BSAI exclusive economic zone is managed by 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 Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) for the BSAI established 2,571 metric tons (mt) as the initial total allowable catch for Pacific ocean perch in the Central Aleutian District.

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Pacific ocean perch initial total allowable catch in the Central Aleutian District subarea soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 2,471 mt after determining that 100 mt will be taken as incidental catch in directed fishing for other species in the Central Aleutian District. NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District to prevent exceeding the directed fishing allowance.

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: March 11, 1996.

Richard W. Surdi,

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

[FR Doc. 96–6176 Filed 3–11–96; 4:01 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 52
Friday, March 15, 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

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB51

Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation., USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes specific crop provisions for the insurance of Florida citrus fruit. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, move the current Florida Citrus Endorsement from 7 CFR 401.143 to the Common Crop Insurance Policy (7 CFR 457) for ease of use by the public and conformance among policy terms, and conform to the amendments to the Federal Crop Insurance Act made by the Federal Crop Insurance Reform Act of 1994.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business April 15, 1996 and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Act of 1995 continues through May 13, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation (FCIC), Farm Service Agency (FSA), United States Department of Agriculture (USDA), 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C., during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William Klein, Program Analyst, Research and Development Division, Product Development Branch, FCIC, FSA, at the address listed above, telephone (816) 926–2704.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Departmental Regulation 1512–1

This action has been reviewed under 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 May 1, 2000.

This rule has been determined to be exempt for the purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

The information collection requirements contained in the Florida Citrus Fruit Crop Provisions have been submitted to OMB for approval under section 3507(j) of the Paperwork Reduction Act of 1995. This proposed rule will amend the information collection requirements under OMB control number 0563–0003 through September 30, 1998. The Federal Crop Insurance Corporation will be amending the information collection to adjust the estimated reporting hours and revising the usage of FCI–12–P, Pre-Acceptance Perennial Crop Inspection Report as it applies to the Florida Citrus Fruit Crop Insurance Provisions.

Section 7 of the 1997 Florida Citrus Fruit Crop provisions adds interplanting as an insurable farming practice as long as it is interplanted with another citrus fruit crop. This practice was not insurable under the previous Florida Citrus Endorsement 90–02 and the General Crop Policy 88–G (REV 3–91) to which it attached. Consequently, interplanting information will need to be collected, using the FCI–12–P Pre-Acceptance Perennial Crop Inspection Report form for approximately 20 percent of the Florida Citrus insureds who interplant their citrus crop. Standard interplanting language has been added to most perennial crops. Interplanting is an insurable practice as long as it does not adversely affect the insured crop. This is a benefit to agriculture because insurance is now available for more citrus and fruit producers and as a result less acreage will need to be placed into the Noninsured Crop Disaster Assistance Program (NAP).

Revised reporting estimates and requirements for usage of OMB control number 0563–0003 will be submitted to OMB for approval under the provisions of 44 U.S.C 35. Public comments are due by May 13, 1996.

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements Including Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions.'' The information to be collected includes: a crop insurance acreage report, an insurance application and a continuous contract. Potential respondents to this information collection are growers of Florida citrus fruit that are eligible for Federal crop insurance.

The estimated increase in the number of respondents and total burden hours associated with the OMB information collection is the result of two new parts in chapter IV of title 7 of the Code of Federal Regulations; Part 402, Catastrophic Risk Protection Plan, and Part 404, Noninsured Crop Disaster Assistance Program. The Federal Crop Insurance Reform Act of 1994 required the Federal Crop Insurance Corporation to implement a catastrophic risk protection plan of insurance that provides a basic level of coverage to protect producers in the event that a covered disaster results in crop losses or prevented planting. As a result of the implementation of the Catastrophic Risk Protection Endorsement, increased producer participation has increased the information collections covered under OMB control number 0563–0003. The information requested is necessary for the reinsured companies and the Federal Crop Insurance Corporation to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts (or fees), and pay benefits.

All information is reported annually. The reporting burden for this collection

of information is estimated to average 25 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,669,970 hours.

The comment period for information collections under the Paperwork Reduction Act of 1995 continues through May 13, 1996, for the following: (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.

Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Bonnie Hart, Advisory and Corporate Operations Staff, Regulatory Review Group, Farm Service Agency, P.O. Box 2415, Ag Box 0572, U.S. Department of Agriculture, Washington, D.C. 20013–2415. Copies of the information collection may be obtained from Bonnie Hart at the above address. Telephone (202) 690–2857.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 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 of State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 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 policies and procedures 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 amount of work required of the insurance companies and FSA offices delivering these policies and procedures therein will not increase significantly from the amount of work currently required to deliver previous policies to which this regulation applies. This rule does not have any greater or lesser impact on the insured farmer. 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 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 not have a retroactive effect prior to the effective date. 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 in 7 CFR part 11 and 7 CFR part 780 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a 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 initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section to be known as 7 CFR 457.107, Florida Citrus Fruit Crop Insurance Provisions. The provisions will be effective for the 1997 and succeeding crop years. The proposed Florida Citrus Fruit Crop Insurance provisions will replace the provisions found at 7 CFR 401.143 (Florida Citrus Endorsement). Upon publication of 7 CFR 457.107 as a final rule, the provisions for insuring Florida citrus fruit contained herein will supersede the current provisions contained in 7 CFR 401.143. By separate rule, FCIC will revise § 401.143 to restrict its effect through the 1996 crop year and later remove that section.

This rule makes minor editorial and format changes to improve the Florida Citrus Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring Florida citrus fruit as follows:

Florida Citrus Endorsement

1. Section 1—Add definitions for the terms ''days'', ''freeze'', ''good farming practices'', ''hurricane'', ''interplanted'', and ''written agreement'' for clarification purposes.

2. Subsection 1(b)—Add limes to the Florida Citrus Fruit Crop Provisions as an insurable citrus crop. Limes are added in response to public interest in coverage and findings of FCIC's field staff and research and development staff supporting the insurability of this additional citrus crop. Limes are grouped with Lemons under Type VI. Limes and lemons are often grown together and are similar in their growth patterns, maturity, and cultivation.

3. Section 2—Describe the guidelines under which basic units may be divided into optional units. The definition of ''unit'' under section 1(tt) of the Basic Provisions (§ 457.6) provides for the division of units in accordance with applicable crop provisions. The current Florida Citrus Endorsement does not

provide guidelines for determining optional units. Section 2 of these crop provisions provides guidelines for optional unit division of Florida citrus fruit basic units that are consistent with many other perennial crop provisions. Optional units may be divided on the basis of section, section equivalent, or FSA Farm Serial Number, or on acreage located on non-contiguous land, or both. Consistent with the definition of ''unit'' in the Basic Provisions (§ 457.6), section 10 of the Florida Citrus Fruit Crop Provisions will provide that, in settling a claim, loss will be determined on a unit basis and all optional units for which acceptable production records were not provided will be combined.

4. Subsection 3(a)—Specify that the insured may select only 1 percent of the maximum dollar amount of insurance for all fruit included in each type shown in section 1 of these crop provisions or as designated in the Special Provisions. Beginning with the 1996 crop year, certain citrus fruit within types (IV tangerines and V murcotts) were priced differently, as shown in the actuarial table. While it was not encouraged, producers could choose different percentages of the maximum amount of insurance depending on anticipated market conditions. This created administrative problems in settling claims. Section 3 of the Basic Provisions provides that the insured may select only one coverage level for each insured crop. Since FCIC considers each type to be a ''crop'', the language in these crop provisions clearly limits producers to 1 percent of the maximum dollar amount for each fruit within a type, regardless of variations in the maximum amount of insurance for the fruit.

5. Subsection 3(c)—Specify that the insured must report the age of any interplanted crop, the planting pattern, and any other information needed to establish the amount of insurance for the interplanted acreage. The acreage or amount of insurance, or both, may be adjusted by us when we become aware of the situation if the insured has not previously reported it. Interplanting is not provided under the current Florida Citrus Endorsement. Section 7 of these crop provisions allows interplanting a citrus fruit crop with another citrus fruit crop. The change in policy language is based on existing practices and FCIC's desire to insure the maximum amount of acreage. Interplanting, as provided in these crop provisions, is limited to existing interplanting practices, i.e., with another citrus fruit crop, and excludes other interplanting practices which may adversely impact the insured crop. This policy change necessitates a change in reporting requirements. Insureds with interplanted citrus acreage must report information needed by the insurer to establish the amount of insurance or number of acres of the interplanted insured crop.

6. Section 4—Change the contract change date from April 15 to March 15. This change will allow insureds more time to make insurance decisions before the April 30 cancellation date.

7. Subsection 6(b)(2)—Change the insurable tree age requirement from 10 years after set out to 5 years after set out based on industry recommendations. The amounts of insurance are listed in the actuarial documents based on tree age, and are reduced proportionately for younger trees.

8. Section 7—Add ''interplanting'' as an insurable farming practice if the citrus fruit crop is interplanted with another citrus fruit crop.

9. Subsection 8(a)(1)—Clarify that if an application is accepted by us after April 20, insurance will attach on the 10th day after the application is received in the insurance provider's local office. Full premium, however, will be due for the partial year.

10. Section 8(b)—Provide policy guidelines for attachment of insurance when insurable acreage is acquired or relinquished. Previously this language was contained in the Crop Insurance Handbook and Catastrophic Risk Protection Handbook.

11. Section 10—Change the deductible for determining when an indemnity is due. For limited and additional coverage the indemnity had been computed based on the determination of the percent of damage less 10 percent. For the 1997 crop year, it will be the percent of damage less the deductible (25%, 30%, 35%, 40%, 45%, 50%) divided by the coverage level percent. This change makes the Florida Citrus Fruit Crop Provisions consistent with other crop provisions and with the way in which other catastrophic losses were computed for the 1995 crop year.

12. Section 11—Add provisions for providing insurance coverage by written agreement. FCIC has a long-standing policy of permitting modification of certain provisions of insurance contracts by written agreement. This provision is not documented in the current Florida Citrus Endorsement. This section will provide for the application for, and duration of, written agreements.

List of Subjects in 7 CFR Part 457

Crop insurance, Florida citrus fruit.

Proposed 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 proposes to amend the Common Crop Insurance Regulations (7 CFR 457), effective for the 1997 and succeeding crop years, as follows:

PART 457—[AMENDED]

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

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

2. 7 CFR 457 is amended by adding a new § 457.107 to read as follows:

§ 457.107 Florida Citrus Fruit Crop Insurance Provisions.

The Florida Citrus Fruit Crop Insurance Provisions for the 1997 and succeeding crop years are as follows:

United States Department of Agriculture; Federal Crop Insurance Corporation; Florida Citrus Fruit Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions, the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions—

(a) *Box*—A standard field box as prescribed in the State of Florida Citrus Fruit Laws.

(b) *Citrus fruit type*—Any of the following:

(1) Type I—Early and mid-season oranges;

(2) Type II—Late Oranges;

(3) Type III—Grapefruit for which freeze damage will be adjusted on a juice basis;

(4) Type IV—Navel Oranges, tangelos and tangerines

(5) Type V—Murcott Honey Oranges (also known as Honey Tangerines) and Temple Oranges;

(6) Type VI—Lemons and Limes; or

(7) Type VII—Grapefruit for which freeze damage will be adjusted on a fresh fruit basis.

(c) *Days*—Calendar days.

(d) *Freeze*—The formation of ice in the cells of the fruit caused by low air temperatures.

(e) *Good farming practices*—The cultural practices generally in use in the area for the crop to make normal progress toward maturity and produce the expected yield for the type and age of citrus fruit and are those generally recognized by the Cooperative Extension Service as compatible with agronomic and weather conditions in the area.

(f) *Harvest*—The severance of mature citrus fruit from the tree by pulling, picking, or any other means, or collecting the marketable fruit from the ground.

(g) *Hurricane*—A windstorm classified by the U.S. Weather Service as a hurricane.

(h) *Interplanted*—Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

(i) *Non-contiguous land*—Any land owned by you or rented by you for any consideration other than a share in the insured crop, whose boundaries do not touch at any point. Land that is separated only by a public or private right-of-way, waterway or irrigation canal will be considered to be contiguous.

(j) *Potential production*—Includes production that would have been produced had damage not occurred and includes citrus fruit that:

(i) Was harvested before damage occurred;

(ii) Remained on the tree after damage occurred; and

(iii) Was lost from either an insured or uninsured cause.

Potential production does not include citrus fruit that:

(i) Was lost before insurance attached for any crop year;

(ii) Was lost by normal dropping; or

(iii) Any tangerines that normally would not, by the end of the insurance period for tangerines, meet the 210 pack size (2 and 4/16 inch minimum diameter) under United States Standards.

(k) *Written agreement*—A written document that alters designated terms of a policy.

2. Unit Division—A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into basic units by each citrus fruit type shown in section 1 of these crop provisions or designated in the Special Provisions. Unless limited by the Special Provisions, a basic unit may be further divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists. Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety other than as described in this section. If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We may combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined. All optional units must be reflected on the acreage report for each crop year.

(a) Each optional unit must meet one or more of the following criteria as applicable:

(1) *Optional Units by Section, Section Equivalent, or Farm Service Agency (FSA) Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. The trees must be planted in such a manner that the planting does not continue into the adjacent section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number; or

(2) *Optional Units on Acreage Located on Non-Contiguous Land:* In addition to or instead of establishing optional units by section, section equivalent or FSA Farm Serial Number, optional units may be established if each optional unit is located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities—In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only 1 percent of the maximum dollar amount of insurance for all citrus fruit included in each type, shown in section 1 of these crop provisions or designated in the Special Provisions, that you elect to insure.

(b) In lieu of the production reporting date contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), potential production for each unit will be determined during loss adjustment.

(c) For the first year of insurance for acreage interplanted with another citrus fruit crop, and anytime the planting pattern of such acreage is changed, you must report, by the sales closing date contained in the Special Provisions, the following:

(1) The age of the interplanted trees and type if applicable;

(2) The planting pattern; and

(3) Any other information we may need to establish your amount of insurance. We will reduce acreage or the amount of insurance, or both, as necessary, based on the effect of the interplanted citrus fruit trees on the insured citrus fruit crop. If you fail to notify us, we will reduce the acreage or amount of insurance, or both, any time we become aware of the interplanted crop.

4. Contract Changes—The contract change date is March 15 preceding the cancellation date. (See the provisions of section 4 (Contract Changes) of the Basic Provisions (§ 457.8).)

5. Cancellation and Termination Dates—In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation date is April 30 preceding the crop year. The termination date is April 30 of the crop year.

6. Insured Crop—

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all of each citrus fruit type that you elect to insure, in which you have a share, that are grown in the county shown on the application, and for which a premium rate is quoted in the actuarial table. If you insure grapefruit, you must insure all of your grapefruit under a single type designation (type III or type VII).

(b) In addition to the citrus fruit not insurable in section 8 (Insured Crop) of the Basic Provisions (§ 457.8), we do not insure any citrus fruit:

(1) That cannot be expected to mature each crop year within the normal maturity period for the type;

(2) Produced by trees that have not reached the fifth growing season after being set out, unless otherwise provided in the Special Provisions or by a written agreement approved by us to insure such citrus fruit;

(3) Of ''Meyer Lemons'' and oranges commonly known as ''Sour Oranges'' or ''Clementines''; or

(4) Of the Robinson tangerine variety, for any crop year in which you have elected to exclude such tangerines from insurance. (You must elect this exclusion prior to the crop year for which the exclusion is to be effective, except that for the first crop year you must elect this exclusion by the later of April 30 or the time you submit the application for insurance.)

(c) Upon our approval, you may elect to insure or exclude from insurance for any crop year any insurable acreage in any unit that has a potential production of less than 100 boxes per acre. If you:

(1) Elect to insure such acreage, we will consider the potential production to be 100 boxes per acre when determining the amount of loss;

(2) Elect to exclude such acreage, we will disregard the acreage for all purposes related to this contract; or

(3) Do not elect to insure or exclude such acreage:

(i) We will disregard the acreage if the potential production is less than 100 boxes per acre; or

(ii) If the potential production from such acreage is 100 or more boxes per acre, we will determine the percent of damage on all of the insurable acreage for the unit, but will not allow the percent of damage for the unit to be increased by including such acreage.

(d) We may exclude from insurance, or limit the amount of insurance, on any acreage that was not insured the previous crop year.

7. Insurable Acreage—In lieu of the provisions in Section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8) that prohibit insurance attaching to a crop planted with another crop, citrus fruit interplanted with another citrus fruit crop is insurable unless we inspect the acreage and determine it does not meet insurability requirements.

8. Insurance Period—(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on May 1 of each crop year, except that for the first crop year, if the application is accepted by us after April 20, insurance will attach on the 10th day after the completed application and acreage and production reports are received in your insurance provider's local office. Full premium is due for any partial year.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) January 31 for tangerines and navel oranges;

(ii) April 30 for lemons, limes, tangelos, early and mid-season oranges; and

(iii) June 30 for late oranges, grapefruit, Temple and Murcott Honey Oranges.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage on or before the acreage reporting date of any crop year and if we inspect and consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable interest on any acreage of insurable citrus fruit on or

before the acreage reporting date of any crop year, insurance will not be considered to have attached to such acreage for that crop year unless:

(i) A transfer of right to an indemnity or a similar form approved by us is completed by all affected parties; and

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date.

9. Causes of Loss—

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the grove;

(2) Freeze;

(3) Hail;

(4) Hurricane; or

(5) Tornado.

(b) In addition to the causes of loss excluded in section 12 (Cause of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Any damage to the blossoms or trees; or

(2) Inability to market the citrus fruit for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Settlement of Claim—

(a) We will determine your loss on a unit basis. In the event you are unable to provide production records:

(1) For any optional unit, we will combine all optional units for which acceptable production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim for each unit by:

(1) Multiplying the number of acres by the respective dollar amount of insurance per acre for the citrus fruit by the share;

(2) Computing the average percent of damage to the respective citrus fruit, rounded to the nearest tenth of a percent (0.1%), without regard to any percent of damage determined in prior inspections. The percent of damage will be the ratio of the number of boxes of citrus fruit considered damaged from an insured cause, divided by the undamaged potential production. Citrus fruit will be considered undamaged potential production if it is:

(i) Or could be marketed as fresh fruit;

(ii) Harvested prior to inspection by us; or

(iii) Harvested within 7 days after a freeze;

(3) Subtracting the insurance (level) deductible from the respective percent of damage and, if this result is positive, dividing this result by the coverage level percentage;

(4) Multiplying this result by the amount of insurance for the respective citrus fruit.

(For example, if the average percent of damage is 70 percent and the coverage level is 75 percent (the deductible is 25 percent), the amount payable is 60 percent times the amount of insurance (70% damage − 25% level deductible)=45% (45%÷75%)=60% adjusted damage X the amount of insurance); and

(5) Summing all such products to determine the amount payable for the unit.

(c) Pink and red grapefruit of Type III, and citrus fruit of Types IV, V, and VII, that are seriously damaged by freeze, as determined by a fresh-fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the State of Florida Citrus Fruit laws, and are not or could not be marketed as fresh fruit will be considered damaged to the following extent:

(1) If less than 16 percent (16%) of the fruit in a sample shows serious freeze damage, the fruit will be considered undamaged; or

(2) If 16 percent (16%) or more of the fruit in a sample shows serious freeze damage, the fruit will be considered 50 percent (50%) damaged, except that:

(i) For tangerines of Type IV, damage in excess of 50 percent (50%) will be the actual percent of damaged fruit; and

(ii) For pink and red grapefruit of citrus Type III, and citrus of Types IV(except tangerines), V, and VII, if it is determined that the juice loss in the fruit exceeds 50 percent (50%), such percent will be considered the percent of damage.

(d) Notwithstanding the provisions of subsection 11(c) as to any pink and red grapefruit of Type III and citrus fruit of Types IV, V, and VII, in any unit that is mechanically separated using the specific gravity ''floatation'' method into undamaged and freeze-damaged fruit, the amount of damage will be the actual percent of freeze-damaged fruit not to exceed 50 percent (50%) and will not be affected by subsequent fresh-fruit marketing. Notwithstanding the preceding sentence, the 50 percent (50%) limitation on freeze-damaged fruit, mechanically separated, will not apply to tangerines of citrus fruit Type IV.

(e) Any citrus fruit of Types I, II, and VI and white grapefruit of Type III that is damaged by freeze, but may be processed into products for human consumption, will be considered as marketable for juice. The percent of damage will be determined by relating the juice content of the damaged fruit as determined by analysis to:

(1) The average juice content of the fruit produced on the unit for the three previous crop years based on your records, if they are acceptable to us; or

(2) The following juice content, if acceptable records are not furnished:

(i) Type I—44 pounds of juice per box

(ii) Type II—47 pounds of juice per box

(iii) Type III—38 pounds of juice per box

(iv) Type VI—43 pounds of juice per box

(f) Any citrus fruit on the ground that is not collected and marketed will be considered totally lost if the damage was due to an insured cause.

(g) Any citrus fruit that is unmarketable either as fresh fruit or as juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause will be considered totally lost.

(h) Pink and red grapefruit of citrus fruit Type III and citrus fruit of Types IV, V, and VII that are unmarketable as fresh fruit due to serious damage from hail as defined in United States Standards for grades of Florida fruit will be considered totally lost.

11. Written Agreements—Designated terms of this policy may be altered by written agreement. You must apply in writing for each written agreement no later than the sales closing date. Each agreement is valid for one year only. If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy. All variable terms, including, but not limited to, crop type and variety, guarantee, premium rate, and price election must be contained in the written agreement. Notwithstanding the sales closing date restriction contained herein, application for a written agreement may be made after the sales closing date, and approved if, after physical inspection of the acreage it is determined that the crop is insurable in accordance with policy and written agreement provisions. Applications for written agreements submitted by the insured must also contain all variable terms of the contract between the company and the insured that will be in effect if the written agreement is not approved.

Signed in Washington, D.C., on March 21, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–6262 Filed 3–12–96; 1:54 pm]

BILLING CODE 3410–FA–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–83–AD]

Airworthiness Directives; JanAero Devices (formerly Janitrol, C&D, FL Aerospace, and Midland-Ross Corporation) B series combustion heaters, Models B1500, B2030, B3040, and B4050

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede AD 82–07–03, which currently requires repetitively testing (pressure decay) JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, that are installed on aircraft, and overhauling any heater that does not pass one of these pressure decay tests. The proposed action would retain these pressure decay tests and possible heater overhaul; and would require repetitive

operational testing of the combustion air pressure switch, and replacing any combustion pressure switch that does not pass one of these tests. Two occurrences of failure of the affected heaters prompted the proposed action. In one case, an explosion resulted and the baggage compartment door was blown off the airplane. In the other case, a fire occurred in the baggage compartment while the airplane was in flight. The actions specified by the proposed AD are intended to prevent an airplane fire or explosion caused by failure of the heater combustion tube assembly or combustion air pressure switch.

DATES: Comments must be received on or before May 17, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–83–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from JanAero Devices, P.O. Box 273, Fort Deposit, Alabama; telephone (334) 227–8306; facsimile (334) 227–8596. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Haynes, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7377; facsimile (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The 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 that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–83–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–83–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 82–07–03, Amendment 39–4354, currently requires repetitively testing (pressure decay) JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, that are installed on aircraft, and overhauling any heater that does not pass one of these pressure decay tests.

The FAA has received reports of two occurrences of failure of the affected heaters. In one case, an explosion resulted and the baggage compartment door was blown off the airplane. In the other case, a fire occurred in the nose baggage compartment while the airplane was in flight. Investigation of these occurrences revealed malfunction of the combustion air pressure switch on the affected heaters.

The function of this switch is to sense a minimum combustion air differential pressure or airflow and then activate a spark ignition to the coil and fuel solenoid valve. The problem is that with the contacts closed, fuel flow and ignition occur without proper airflow, resulting in a possible explosive ignition.

JanAero Devices has developed a new combustion air pressure switch, which, when incorporated on one of the affected combustion heaters, eliminates the electrical contact in the closed position utilized in the old design switch. Procedures for incorporating these parts of improved design are included in JanAero Devices Service Bulletin (SB) # A–102, dated September 1994. In addition, JanAero devices has incorporated improved design ceramic combustion tubes into new heater assemblies.

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that (1) the repetitive inspections required by AD 82–07–03 are still needed for JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, installed on aircraft; (2) the combustion air pressure switches of the affected combustion heaters should be repetitively inspected until a new switch of improved design is installed; and (3) AD action should be taken to prevent an airplane fire or explosion caused by failure of the heater combustion tube assembly or combustion air pressure switch.

Since an unsafe condition has been identified that is likely to exist or develop in other JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050 of the same type design installed in aircraft, the proposed AD would supersede AD 82–07–03 with a new AD that would (1) retain the requirements of repetitively testing (pressure decay), and overhauling any heater that does not pass one of these pressure decay tests; (2) require repetitive operational testing of the combustion air pressure switch, and replacing any combustion pressure switch that does not pass one of these tests; and (3) provide the option of installing a combustion air pressure switch of improved design as terminating action for the repetitive operational tests.

Accomplishment of the proposed actions would be as follows:

—the pressure decay tests, combustion air pressure switch operational tests, and possible heater overhaul in accordance with the Overhaul and Maintenance Manual; and

—the improved design combustion air pressure switch installation in accordance with JanAero Devices SB # A–102, dated September 1994.

The compliance times of the proposed AD are presented in both hours time-in-service and calendar time (with the prevalent one being whichever occurs first). The reason for the proposed dual compliance time is that the affected combustion heaters are susceptible to corrosion (occurs regardless of whether the airplane is in flight or on the ground) as well as being affected by thermodynamic and pressure cycles accumulated through regular airplane usage.

The FAA estimates that 25,700 aircraft in the U.S. registry have the affected heaters installed and, thus would be affected by the proposed AD,

that it would take approximately 1 workhour per aircraft to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,542,000 or $60 per aircraft. This figure does not take into account the number of repetitive inspections each aircraft owner/operator would incur over the life of the aircraft, or the number of aircraft that have an improved design combustion air pressure switch installed. The FAA has no way of determining the number of repetitive inspections each owner/operator would incur over the life of the aircraft. The FAA is not aware of any affected owner/operator that has incorporated the new design parts as of publication of the notice of proposed rulemaking.

AD 82–03–07 currently requires the pressure decay tests on aircraft with the affected heaters installed. This action maintains these inspections; so the only cost impact of the proposed action is that of the combustion air pressure switch operational tests.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations 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 removing Airworthiness Directive (AD) 82–07–03, Amendment 39–4354, and by adding a new AD to read as follows:

Janaero Devices (formerly Janitrol, C&D, FL Aerospace, and Midland-Ross Corporation): Docket No. 95–CE–83–AD; Supersedes AD 82–07–03, Amendment 39–4354.

Applicability: B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, marked as meeting the standards of TSO-C20, that do not incorporate a ceramic combustion tube and a part number (P/N) 94E42 combustion air pressure switch, and are installed on, but not limited to, the following aircraft (all serial numbers), certificated in any category:

Manufacturer	Models and series model airplanes
Beech	Models 95–B55 Series, 58, 58TC, 58P, 60, A60, and 76.
Canadair	Models CL–215, CL–215T, and CLT–415.
Cessna	Models 208, 303, 310F, 310G, 310H, 310I, 310J, 310K, 310L, 310M, 310N, 310O, 310P, 320C, 320D, 320E, 320F, 337 series, 340 340A, 414, 414A, 421, 421A, 421B, and 421C.

Note 1: This AD applies to each aircraft 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 follows, as applicable:

—For aircraft with 450 or more heater hours time- in-service (TIS) (see Note 2 for information on how to determine heater hours TIS) accumulated on an installed heater since the last overhaul or new installation, within the next 50 heater hours TIS or 12 calendar months after the effective date of this AD, whichever occurs first, unless already accomplished, and thereafter at intervals not to exceed 100 heater hours TIS or 24 calendar months, whichever occurs first;

—For aircraft with less than 450 heater hours TIS accumulated on an installed heater since the last overhaul or new installation, upon accumulating 500 heater hours TIS on the new or overhauled heater or within the next 12 calendar months after the effective date of this AD, whichever occurs first, unless already accomplished, and thereafter at intervals not to exceed 100 heater hours TIS or 24 calendar months, whichever occurs first; and

—Upon installing one of the affected heaters, and thereafter at intervals not to exceed 100 heater hours TIS or 24 calendar months, whichever occurs first.

Note 2: A heater hour meter may be used to determine heater hours TIS. Also, aircraft hours TIS may be divided in half to come up with heater hours TIS.

To prevent an airplane fire or explosion caused by failure of the heater combustion tube assembly or combustion air pressure switch, accomplish the following:

(a) Test (pressure decay test) the combustion tube of the heater and conduct an operational test of the combustion air pressure switch in accordance with Section III, paragraph 3.3.1 through 3.3.13 (pressure decay test) and Section IV, paragraph 4.9c (operational switch test), of the Janitrol Maintenance and Overhaul Manual, part number (P/N) 24E25–1, dated October 1981.

(1) If any heater does not pass any of the repetitive combustion tube pressure decay tests required by this AD, prior to further flight, overhaul the heater and replace the combustion tube with a serviceable tube or replace the heater assembly. If the new or rebuilt heater assembly incorporates a ceramic combustion tube, then the repetitive pressure decay tests are no longer required.

(2) If any heater does not pass any of the repetitive combustion air pressure switch operational tests required by this AD, prior to further flight, replace the switch with one of the same design or with a P/N 94E42 switch. Replacing the combustion air pressure switch with a P/N 94E42 switch eliminates the repetitive operational testing requirement of this AD.

(b) As an alternative method of compliance to the requirements of this AD, the heater may be disabled by accomplishing the following:

(1) Cap the fuel supply line;

(2) Disconnect the electrical power and ensure that the connections are properly secured to reduce the possibility of electrical spark or structural damage;

(3) Inspect and test to ensure that the cabin heater system is disabled;

(4) Ensure that no other aircraft system is affected by this action;

(5) Ensure there are no fuel leaks; and

(6) Fabricate a placard with the words: ''System Inoperative''. Install this placard at the heater control valve within the pilot's clear view.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(e) Alternative methods of compliance for the combustion tube repetitive inspections required by this AD that are approved in accordance with AD 82–07–03 (superseded by this action) are approved as alternative methods of compliance with the applilcable portion of paragraph (a) of this AD.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 82–07–03, Amendment 39–4354.

Issued in Kansas City, Missouri, on March 11, 1996.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6192 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–13–U

Office of the Secretary

14 CFR Part 243

[Notice No. 96–4; Docket No. 47383]

RIN 2105–AB78

Notice of Public Meeting on Implementing a Passenger Manifest Information Requirement

AGENCY: Office of the Secretary, DOT.

ACTION: Announcement of public meeting.

SUMMARY: On March 29, 1996, DOT will conduct a public meeting on implementing a passenger manifest information requirement that would require in the instance of an aviation disaster that occurs on a flight to or from the United States on a U.S. or foreign air carrier that the air carrier transmit rapidly to the Department of State information on the U.S.-citizen passengers on the flight. The public meeting is being held because it has been brought to the attention of DOT that the Department of State encountered difficulties in securing information on U.S.-citizen passengers in the aftermath of the recent Cali, Colombia, aviation disaster. Since a long period of time has elapsed since this issue arose originally in the aftermath of the 1988 Lockerbie, Scotland, aviation disaster, and since DOT received comments in response to its January 31, 1991, (56 FR 3810) advance notice of proposed rulemaking (ANPRM) on a passenger manifest information requirement (see also the correction at 56 FR 5665), we believe that a public meeting during which stakeholders can exchange views and update knowledge on implementing such a requirement is necessary as a prelude to DOT proposing a passenger manifest information requirement.

DATES: Public Meeting: Friday, March 29, 1996, at 10:00 a.m.

ADDRESSES: The Public Meeting will be held in Rooms 8236–40, U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Dennis Marvich, Senior Economist, Office of International Transportation and Trade, DOT, (202)366–4398; or Joanne Petrie, Senior Attorney, Office of the General Counsel, DOT, (202)366–4723.

SUPPLEMENTARY INFORMATION: DOT intends to propose a passenger manifest information requirement that would require, in the instance of an aviation disaster that occurs on a flight to or from the United States on a U.S. or foreign air carrier, that the air carrier transmit rapidly to the Department of State information on the U.S.-citizen passengers on the flight. We anticipate that foreign air carriers would be included because they account for about one half of international passenger trips to and from the United States, and because section 319 of the DOT FY 1996 Appropriation Act states, ''None of the funds provided in this Act shall be made available for planning and executing a passenger manifest program by the Department of Transportation that only applies to United States flag carriers.''

A passenger manifest information requirement was contained in section 203 of the Aviation Security Improvement Act of 1990 (ASIA), Public Law 101–604, which was enacted in response to concerns about difficulties that the Department of State experienced in securing information on U.S.-citizen passengers in the aftermath of the 1988 Pan Am 103 aviation disaster over Lockerbie, Scotland. A discussion of that experience is found in Chapter 7 of the Report of the President's Commission on Aviation Security and Terrorism (Washington, D.C.: 1990). The complete text of section 203 of ASIA follows:

''Sec. 203. Passenger Manifest.

(a) Mandatory Availability of Passenger Manifest.—Section 410 of the Federal Aviation Act of 1958 [Note: Section 410 of the Federal Aviation Act of 1958 is now recodified as 49 U.S.C. 44909] is amended to read as follows:

''Sec. 410. Passenger Manifest.

''(a) *Requirement.*—Not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State—

''(1) Not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or

''(2) If it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

''(b) Contents.—For purposes of this section, a passenger manifest should include the following information:

''(1) The full name of each passenger.

''(2) The passport number of each passenger, if required for travel.

''(3) The name and telephone number of a contact for each passenger.''

(b) *Implementation.*—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Secretary of Transportation shall consider the necessity and feasibility of requiring United States air carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) *Foreign Air Carriers.*—The Secretary of Transportation shall

consider a requirement for foreign air carriers comparable to that imposed pursuant to the amendment made by subsection (a).

(d) *Information From United States Passports.*—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

(e) *Conforming Amendment to Table of Contents.*—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking the item relating to section 410 and inserting the following:

''Sec. 410. Passenger Manifest.''.

Public Law 101–604 also sets forth Department of State notification responsibilities in section 204. The complete text of Section 204 follows:

Sec. 204. Department of State Notification of Families of Victims.

(a) *Department of State Policy.*—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall insure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) *Department of State Guidelines.*—Not later than 60 days after the date of enactment of this Act, the Secretary of State shall issue regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

In response to a January 31, 1991 (56 FR 3810), advance notice of proposed rulemaking (ANPRM) on a passenger manifest information requirement (see also the correction at 56 FR 5665), DOT received comments indicating that the costs of implementing a passenger manifest information requirement such as the one found in section 203 would be extremely high. Additional comments on the high costs of implementing section 203 were received in response to President Bush's 1992 Regulatory Moratorium and Review. In light of these comments and the fact that aviation disasters occur so rarely, DOT has scrutinized section 203 in an effort to determine if a low-cost way to implement a passenger manifest information requirement exists. DOT has considered seeking repeal of section 203. Because it has been reported to DOT that difficulties were experienced by the Department of State in securing a list of passengers in the aftermath of the recent American Airlines crash in Cali, Colombia, DOT now, however, intends to propose a passenger manifest information requirement.

The Cali, Colombia, incident took place almost exactly seven years after the passenger manifest issue first arose in connection with the Pan Am 103 tragedy. It has been over five years since DOT received comments in response to its ANPRM on this subject. In the interim, issues surrounding and operational aspects regarding the best way to implement a passenger manifest information requirement may have changed. DOT is interested in getting up-to-date information on how it can implement a passenger manifest requirement so that U.S. and foreign carriers alike can achieve the most effective transmission of information after an aviation disaster at a cost that the general public and the aviation community will find reasonable. The purpose of the public meeting is to gather information and allow stakeholders in the implementation of a passenger manifest information requirement to exchange views.

The meeting will be tape recorded. Any written submissions will be placed in the docket, and should be submitted to: Documentary Services Division—Docket 47383, C–55, U.S. Department of Transportation, Room PL–40l, 400 7th Street, SW, Washington, D.C. 20590. We request, but do not require, that three copies be submitted.

DOT will seek answers to the following questions at the public meeting. In addition, other questions may arise in the course of the meeting.

Information Availability and Current Notification Practice

1. What information regarding the passengers on an international flight to or from the United States does or should an air carrier have on-hand within one hour of learning that an aviation disaster has occurred? In what form is this information kept, electronic or otherwise? What degree of accuracy exists with regard to a passenger manifest that is produced quickly? Is implementing a passenger manifest information requirement simply a matter of legally requiring, in the instance of an aviation disaster, that this already-on-hand information must be transmitted rapidly to the Department of State? Do answers to these questions change if the time period is extended to three hours? What is the process of refining or confirming initial information as more time elapses?

2. Apart from the passenger information that is available within 1–3 hours, does other information on the passenger exist and what does it consist of? Who has this information, the air carrier or others? What is involved in accessing the information, and how long is it likely to take to access it?

3. In the event of an aviation disaster, how does an air carrier currently compile an accurate list of passengers, respond to inquiries from the families of passengers, and notify the families of passengers of the fate of passengers? How long does this take from the time the first family is notified until the time that the last family is notified? Does the air carrier wait until the identity of all passengers on the flight is known before making notifications, or does the air carrier make notifications on a so-called ''rolling basis''? What information is given to the Department of State and how quickly? Is the information given to others, such as the news media, and how quickly?

4. How does an air carrier respond to inquiries from families who believe that a family member(s) may have been on a flight before the air carrier has determined for itself whether or not this individual(s) was on the flight? Before the air carrier has determined the fate of the passenger(s) in question? What information is compiled by the air carrier in order to answer inquiries/make notifications and how is it obtained? Is all of the information that is listed in section 203 of Public Law 101–604 (full name, passport number [if required for travel], contact name, contact telephone number) compiled by the air carrier for each passenger before or during this process? If so, when? If not, what information is not compiled?

Privacy Considerations

5. Some foreign governments indicated in ANPRM comments that privacy laws in effect in their countries would prevent collecting passenger information in their countries. Since section 203 would only require information to be collected from U.S.-citizen passengers, if this information were only used in the event of an aviation disaster, and then only disclosed to the Department of State, would any general privacy concerns arise? If the information were allowed to

be shared with other U.S. Government agencies, such as U.S. Customs Service, which collects similar information from passengers for input into its Advance Passenger Information System (APIS), would any additional privacy concerns arise? Are there ways to overcome these privacy concerns?

6. We have been told that air carriers currently are reluctant to provide passenger information to the Department of State in the absence of a waiver of responsibility for disclosure of the information to third parties. What falls within the ambit of this issue? To what extent does the 1974 Privacy Act govern this issue?

Similar Information Requirements

7. The Advance Passenger Information System (APIS) of the U.S. Customs Service requires participating air carriers (participation is voluntary) to collect a passenger's full name, passport number, date of birth, and other information, but not contact information. U.S. Customs provides electronic passport readers to air carriers participating in the program. APIS information (API) is currently collected for about 50 percent of U.S.-incoming passengers (U.S. citizens and non-U.S. citizens). For a covered flight, API is collected on the ground and then transmitted to the U.S. Customs Service while the flight is en route, so, were an APIS-covered flight to end in disaster, the API would be available for immediate transmittal to the Department of State. API is collected by using electronic scanning devices to scan the information on the optical character recognition (OCR) zone of U.S. and other countries' machine-readable passports. (Emergency contact information is not available from the magnetic strip.) Could the API information be used to fulfill the passenger manifest information requirement of section 203? If air carriers were required to also collect contact information for U.S. citizens on APIS flights, how would they likely do so? What would be the practical effects of doing so?

8. It is our understanding that as part of the passport application, the Department of State currently collect information on emergency contacts. It is also our understanding that this contact information is optional, that is, the information is not required to be provided in order to receive a passport. Further, we understand that the Department of State's passport information is automated and that, if provided, contact information is maintained as part of this automated passport information. We would like to know what role this Department of State contact information might play in identifying the families of passengers aboard a flight that ends in disaster? What information is needed to access Department of State passport records? Can these records be accurately accessed using APIS information?

Information Collection Technique

9. Some comments received by DOT said that passenger manifest information, by necessity, would have to be collected primarily at the time of reservation in computer reservation systems (CRSs). (It was, however, recognized in these comments that all passengers would not provide the information at the time of reservation, and thus that provision would also have to be made to collect the information from some passengers at the airport.) Others have mentioned the approach of redesigning boarding passes so they would have a detachable stub that could be filled out by passengers and dropped in a box just before boarding their flight. APIS, the closest counterpart collection system that we are aware of, usually involves, as we understand it, airport scanning of passports with input of the information into the air carrier's CRS. What are the pros and cons of these different collection systems for the large scale collection of passenger manifest information?

Elements of the Cost of Collecting Passenger Manifest Information

10. Executive order 12866 requires the Department of Transportation to quantify the costs and benefits of regulations that it proposes and issues. What are the cost elements that would be involved in collecting passenger manifest information, limiting the discussion to only the additional costs that would be incurred? How much additional time would it take to collect passenger manifest information from a passenger? What would one-time costs consist of? What would recurring, annual costs consist of? Approximately what percentage of recurring, annual costs would be for additional personnel to collect the information? Give an approximate compensation (salary plus benefits) figure for the additional personnel that would collect the information?

Issued in Washington, D.C. on March 12, 1996

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–6357 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–62–P

FEDERAL TRADE COMMISSION

16 CFR Part 21

Request for Comments Concerning Guides for the Mirror Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') is requesting public comments on its Guides for the Mirror Industry (the ''Mirror Guides'' or ''these Guides''). The Commission is also requesting comments about the overall costs and benefits of these Guides and their overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until April 15, 1996.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments about the Mirror Guides should be identified as ''16 CFR Part 21—Comment.''

FOR FURTHER INFORMATION CONTACT: Jessica D. Gray, Attorney, Federal Trade Commission, Boston Regional Office, 101 Merrimac Street, Suite 810, Boston, MA 02114–4719, (617) 424–5960.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or rescission.

A. Background

The Mirror Guides, promulgated by the Commission on June 30, 1962, and amended on September 13, 1972 (16 CFR Part 118) (1972), and February 27, 1979 (44 FR 11183 (1979)), give guidance about acceptable and unacceptable claims made in advertising or promotional materials used during the sale or distribution of mirrors. Specifically, these Guides make it an unfair or deceptive act or practice for any industry member in connection with the sale, offering for sale, or distribution of mirrors to use any advertisement or representation that is false or has the tendency to mislead purchasers or prospective purchasers with respect to the type, grade, quality, quantity, use, size, design, material,

finish, strength, backing, silvering, thickness, composition, origin, preparation, manufacture, value, or distribution of any mirror.

In addition, these Guides make it an unfair or deceptive act or practice for any member of the industry to sell, offer for sale, or distribute any mirror under any representation or circumstance having the capacity to mislead or deceive purchasers or prospective purchasers with regard to the type or kind of glass contained in any mirror or the type of backing.

B. Issues for Comment

At this time, the Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Mirror Guides?

(a) What benefits have these Guides provided to purchasers of the products or services affected by them?

(b) Have these Guides imposed costs on purchasers?

(2) What changes, if any, should be made to these Guides to increase their benefits to purchasers?

(a) How would these changes affect the costs that these Guides impose on firms subject to their requirements?

(3) What significant burden or costs, including costs of compliance, have these Guides imposed on firms subject to their requirements?

(a) Have these Guides provided benefits to such firms?

(4) What changes, if any, should be made to these Guides to reduce the burden or costs imposed on firms subject to their requirements?

(a) How would these changes affect the benefits provided by these Guides?

(5) Do these Guides overlap or conflict with other federal, state, or local laws or regulations?

(6) What changes, if any, have been made in the technology used to manufacture the glass used in making mirrors that may address the issues of whether mirrors may be advertised as being ''distortion free'' or ''shatter proof?''

(7) Have efforts been made to standardize the technology used for ''backing'' mirrors?

(8) Since the Mirror Guides were issued, what effects, if any, have changes in relevant technology or economic conditions had on them?

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–6255 Filed 3–14–96; 8:45 am]

BILLING CODE 6750–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Appropriateness of Requested Single Location Bargaining Units in Representation Cases

AGENCY: National Labor Relations Board.

ACTION: Notice of extension of time for filing comments to proposed rulemaking.

SUMMARY: The National Labor Relations Board gives notice that it is extending the time for filing comments on the proposed rulemaking on the appropriateness of requested single location bargaining units in representation cases because of matters raised during the March 7, 1996, hearing and a request for extension.

DATES: The comment period which presently ends at the close of business on March 15, 1996, is extended to the close of business on April 12, 1996.

ADDRESSES: Comments on the proposed rulemaking should be sent to: Office of the Executive Secretary, 1099 14th Street, NW., Room 11600, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: The Board's notice of proposed rulemaking on the appropriateness of requested single location bargaining units in representation cases was published in the Federal Register on September 28, 1995 (60 FR 50146). The notice provided that all responses to the notice of proposed rulemaking must be received on or before November 27, 1995. On November 20, 1995 the Board extended the time to January 22, 1996. Because of the recent shutdown of operations due to lack of appropriated funds, the Board extended the time to February 8, 1996. In view of public interest, the Board further extended the period for filing responses to the notice of proposed rulemaking until the close of business on Friday, March 15, 1996.

On March 7, 1996, the House Subcommittee on Regulation and Paperwork of the Committee on Small Business of the U.S. House of Representatives conducted an oversight hearing regarding the proposed rule and on March 8, 1996, United Food & Commercial Workers International Union, AFL–CIO, requested the Board to extend the period for filing comments to the proposed rule to April 12, 1996. In light of the matters raised during the March 7 hearing and the request of United Food & Commercial Workers International Union, AFL–CIO for an extension of time, the Board extends the period for filing responses to the notice of proposed rulemaking until April 12, 1996.

Dated, Washington, DC, March 11, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96–6159 Filed 3–14–96; 8:45 am]

BILLING CODE 7545–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5, 21, 22, 23, 24, 25, 26, 73, 74, 78, 80, 87, 90, 94, 95, and 97

[ET Docket No. 96–2; RM–8165; FCC 96–12]

Arecibo Coordination Zone

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this Notice of Proposed Rule Making (''NPRM''), the Commission proposes to designate the Puerto Rican Islands of Puerto Rico, Desecheo, Mona, Vieques, and Culebra as a Coordination Zone, in order that the Arecibo Radio Astronomy Observatory (Observatory) near Arecibo, Puerto Rico may be notified of certain proposed radio operations. This proposal would require applicants for a new station or for a modification of facilities within the requested Coordination Zone, to simultaneously notify the Observatory of the technical particulars of the proposed operations at the time of filing their applications with the Commission. The NPRM also proposes to require applicants for short-term broadcast auxiliary services within the Coordination Zone to notify the Observatory in advance of their proposed operations, except in emergency situations. In addition, the NPRM proposes to require new amateur beacon and repeater stations within 10 miles of the Observatory to be coordinated. This NPRM would make it possible for the Observatory and applicants to coordinate and share information in order to avoid harmful interference to sensitive, nationally important radio astronomy operations.

DATES: Comments must be filed on or before April 1, 1996 and reply comments must be filed on or before April 16, 1996. Written comments by the public on the proposed and/or modified information collections are due April 1, 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 14, 1996.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, 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: Tom Derenge, Office of Engineering and Technology, (202) 418–2451. 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 Notice of Proposed Rule Making, ET Docket No. 96–2, adopted January 18, 1996, and released February 8, 1996. The full text of this Commission decision 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 of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037. This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under 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.

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, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due May 14, 1996. 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: Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Small Entities, Individual or households, Business or other for profit, State, Local of Tribal Government.

Number of Respondents: 500.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 300 hours.

Needs and Uses: The Commission believes that a Coordination Zone would facilitate the ability of the Observatory and Commission applicants to contact each other in order to cooperate to avoid causing interference. The collection would enable the Observatory and applicants to coordinate and share information in order to avoid harmful interference to sensitive, nationally important radio astronomy operations.

List of Subjects

47 CFR Part 5

Radio.

47 CFR Part 21

Communications common carriers, Radio.

47 CFR Part 22

Communications common carriers, Radio.

47 CFR Part 23

Communications common carriers, Radio.

47 CFR Part 24

Communications common carriers, Radio.

47 CFR Part 25

Communications common carriers, Radio.

47 CFR Part 26

Communications common carriers, Radio.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 74

Radio broadcasting, Television broadcasting.

47 CFR Part 78

Cable television, Radio.

47 CFR Part 80

Marine safety, Radio.

47 CFR Part 87

Defense communications, Radio.

47 CFR Part 90

Common carriers, Radio.

47 CFR Part 94

Radio.

47 CFR Part 95

Radio.

47 CFR Part 97

Civil defense, Radio.

Federal Communications Commission.

William F. Caton,

Secretary.

[FR Doc. 96–6205 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 25

[IB Docket No. 95–59; FCC 96–78]

Preemption of Local Zoning Regulations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has proposed revisions to its rule preempting certain local regulation of satellite earth stations. These revisions are being proposed in response section 207 of the Telecommunications Act of 1996. That section directs the Commission to preempt nonfederal restrictions on certain direct-to-home video services, including Direct Broadcast Satellite (DBS) service. In our Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 95–59, we tentatively conclude that the final rule adopted in the Report and Order fulfills the Commission's obligation under the new statutory provision as to nonfederal, governmental restrictions on DBS-type satellite earth station antennas, but ask

for comment on this issue. Further, we tentatively conclude that section 207 of the Telecommunications Act of 1996 requires us to promulgate a new rule prohibiting enforcement of nongovernmental restrictions on small-antenna video reception. We therefore propose to add a new paragraph to our preemption rule in order to implement section 207 with regard to private, nongovernmental restrictions on DBS-type satellite earth station antennas. The proposed rule closely tracks the language of section 207, as amplified by the House Committee Report.

DATES: Comments are due by April 15, 1996; reply comments are due by May 6, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, International Bureau, Satellite and Radiocommunication Division, Satellite Policy Branch, (202) 418–0754.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 95–59; FCC 96–78, adopted February 29, 1996 and released March 11, 1996. The complete text of this Report and Order and Further Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Further Notice of Proposed Rulemaking

1. The Further Notice of Proposed Rulemaking is being issued to implement section 207 of the Telecommunications Act of 1996. Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 (1996). That section directs the Commission to preempt nonfederal restrictions that impair reception by antennas in direct-to-home video services, including Direct Broadcast Satellite (DBS) service. In our Further Notice, we tentatively conclude that the final rule adopted in this Report and Order fulfills the Commission's obligation under the new statutory provision as to nonfederal, governmental restrictions on DBS-type satellite earth station antennas. We ask for comment on our conclusion. We tentatively conclude that section 207 of the Telecommunications Act of 1996 requires us to promulgate a new rule prohibiting enforcement of nongovernmental restrictions on small-antenna video reception.

2. We therefore propose to add a new paragraph (f), as set forth below, for our preemption rule in order to implement section 207 with regard to private, nongovernmental restrictions on DBS-type satellite earth station antennas. This proposed rule closely tracks the language of section 207, as amplified by the House Committee Report. The *per se* nature of the rule does treat private restrictions differently from restrictions imposed by state or local governments. However, as we have recognized throughout this proceeding, state and local land-use regulations have traditionally been near the core of those governments' general police powers. The presumption in favor of small antennas can be rebutted only by health or safety concerns. Non-governmental restrictions would appear to be directed to aesthetic considerations. Thus, we tentatively conclude that it is appropriate to accord private restrictions less deference on this basis. We seek comment on this conclusion and on all aspects of our proposed rule.

Ordering Clauses

3. Accordingly, *it is ordered* That pursuant to the Communications Act of 1934, 47 U.S.C. 151, 154, 303(r), 403, and 405, notice is hereby given and comment is sought regarding the proposals, discussion, and statement of issues in the Further Notice of Proposed Rulemaking that comprises paragraphs 55 through 62 of the Report and Order and Further Notice of Proposed Rulemaking.

4. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

5. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

6. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 15, 1996 and reply comments on or before May 6, 1996. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20054.

7. *It is further ordered* That the Secretary shall send a copy of this Report and Order and Further Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 95–354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

Initial Regulatory Flexibility Analysis

Reason for Action

The rulemaking is initiated to obtain comment on the proposed changes to the Commission's satellite antenna preemption rule, 47 CFR § 25.104.

Objectives

The Commission seeks to evaluate whether the proposed changes to the satellite antenna preemption rule will facilitate the installation of antennas and assist in the development of satellite based technologies.

Legal Basis

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 (i) and 303 (r), Section 207 of the 1996 Telecom Act.

Reporting, Recordkeeping, and Other Compliance Requirements

Private restrictions on satellite antennas would be preempted.

Federal Rules that Overlap, Duplicate or Conflict With These Requirements

None.

Description, Potential Impact and Number of Small Entities Involved

Any policies or regulations adopted in this proceeding could affect small businesses that install or use satellite antennas.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

This Notice solicits comments on any suggested alternatives.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Part 25 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: Sections 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 416–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

Section 25.104 is amended by adding new paragraph (f) to read as follows:.

§ 25.104 Preemption of local zoning of earth stations.

* * * * *

(f) No restrictive covenant, encumbrance, homeowners' association rule, or other nongovernmental restriction shall be enforceable to the extent that it impairs a viewer's ability to receive video programming services over a satellite antenna less than one meter in diameter.

[FR Doc. 96–6380 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 620

[Docket No. 960222043–6043–01; I.D. 111595B]

RIN 0648–AC61

Foreign and Domestic Fishing; Scientific Research Activity and Exempted Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes new and revised definitions for certain regulatory terms to distinguish clearly among scientific research activities, exempted fishing, and exempted educational activities; to clarify and standardize issuance procedures for letters of acknowledgement of notification of scientific research activity and exempted fishing permits (EFPs); and to facilitate scientific research activities.

DATES: Comments must be received by April 15, 1996.

ADDRESSES: Comments should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be sent to Richard H. Schaefer at the above address and to the Office of Management and Budget, Paperwork Reduction Project (0648–0214), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: William D. Chappell, Fishery Management Specialist; 301–713–2341.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) authorizes the Secretary of Commerce to conserve and manage fishery resources in the exclusive economic zone (EEZ) by regulating ''fishing.'' Section 3(10) of the Magnuson Act, 16 U.S.C. 1802(10), defines ''fishing'' as the catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or any other operations at sea in support of, or in preparation for, any of the aforementioned activities. ''Fish'' includes finfish, mollusks, crustaceans, and all other forms of marine life other than marine mammals and birds.

Excluded expressly from the definition of fishing, and therefore from the Magnuson Act's purview, is ''scientific research activity which is conducted by a scientific research vessel.'' The Magnuson Act does not, however, define ''scientific research activity'' or ''scientific research vessel.'' The legislative history provides little guidance on Congress' intent in exempting scientific research conducted from a scientific research vessel from the Magnuson Act's requirements. The sole mention of the subject occurred during the Senate Conference Committee's consideration of H.R. 200, which, after amendment, ultimately became the Magnuson Act:

It should be noted that the definition of ''fishing'' in section 3(10) does not include scientific research conducted by a scientific research vessel. The conference committee does not consider the conducting of tests of fishing gear to be scientific research within the meaning of the bill. (S. Conf. Rep. No. 711, 94th Cong., 2d Sess. 43, reprinted in 1976 U.S. Code Cong. & Admin. News 660, 667).

It seems clear that Congress' intent was that not all activity that takes place on board a scientific research vessel be exempt from provisions of the Magnuson Act. The focus of the exemption is on the research nature of a particular activity conducted on board a scientific research vessel, rather than on the fish taken. However, because ''scientific research activity'' and ''scientific research vessel'' have never been precisely defined, the potential exists for abuse by using the exemption to obtain marketable fish outside of established fishing seasons or areas, or to otherwise avoid applicable regulations. Accordingly, NMFS now proposes definitions for ''scientific research activity'' and ''scientific research vessel''.

Consistent with the wording of the Magnuson Act, the proposed definition of ''scientific research activity'' has as its focus ''pure science,'' as opposed to general gear or market research, or scouting for exploitable resources. Such applications would now be included under exempted fishing. The proposed definition for ''scientific research activity'' for the purposes of these regulations is an activity in furtherance of a scientific fishery investigation or study that would meet the definition of fishing under the Magnuson Act, but for the exemption applicable to scientific research activity conducted from a scientific research vessel. Scientific research activity includes, but is not limited to, sampling, collecting, observing, or surveying the fish or fishery resources within the U.S. EEZ, at sea, on board scientific research vessels, to increase scientific knowledge of the fishery resources or their environment, or to test a hypothesis as part of a planned, directed investigation or study conducted according to methodologies generally accepted as appropriate for scientific research. At-sea scientific fishery investigations address one or more issues involving taxonomy, biology, physiology, behavior, disease, aging, growth, mortality, migration, recruitment, distribution, abundance, ecology, stock structure, bycatch, and catch estimation of fish and shellfish (invertebrate) species considered to be a component of the fishery resources within the U.S. EEZ. Scientific research

activity does not include the collection and retention of fish outside the scope of the applicable research plan, or the testing of fishing gear. Data collection designed to capture and land quantities of fish or invertebrates for product development, market research, and/or public display must be permitted under exempted fishing procedures. These proposed regulations would allow foreign vessels to conduct data collection activities as described above, which might be considered exempted fishing in domestic fisheries, as part of scientific research activities when they are carried out in full cooperation with the United States. This represents the current wording of the scientific research rules in part 611. Full cooperation with the United States has generally meant the research activity was conducted with a U.S. scientist on board or invited to participate in the research and with the data generated from the research provided to the United States.

An accepted convention of any bona fide scientific research project is the advance preparation of a written research plan that guides the conduct of the research. At a minimum, such a research plan or protocol includes (1) a description of the nature and objectives of the project; (2) the experimental design of the project, including description of the methods to be used, the type and class of vessel(s) to be used, and a description of sampling equipment; (3) the geographical areas in which the project is to be conducted; (4) the expected date of first appearance and final departure of any research vessel(s) to be employed, and deployment and removal of equipment, as appropriate; (5) the quantity and species of fish to be taken, and their intended disposition, and, if significant amounts of a managed species or species otherwise restricted by size or sex are needed, an explanation of such need; (6) the name, address, and telephone/telex/fax number of the sponsoring organization and its director; (7) the name, address, telephone/telex/fax number, and curriculum vitae of the person in charge of the project and, where different, the person in charge of the research project on board the vessel; and (8) the identity of the vessel(s) to be used.

To facilitate scientific research activities, NMFS proposes to encourage researchers interested in conducting scientific research activities in the EEZ to submit to the appropriate Director, Regional Director, or designee, as proposed to be defined in 50 CFR 611.2, a scientific research plan 60 days, or as far in advance as practicable, before the start of the research. The Director, Regional Director, or designee would acknowledge notification of a scientific research activity by issuing a letter of acknowledgment. This letter of acknowledgment would be separate and distinct from any permit required by any other applicable law. Submission and acknowledgment of a scientific research plan meeting the minimum standards listed above, in advance of the conduct of the research, would allow a presumption that activities within the scope of the research plan or protocol are scientific research activities. NMFS would advise all persons conducting scientific research in the EEZ to carry the scientific research plan and letter of acknowledgment on board the scientific research vessel. In the event of boarding or inspection for enforcement purposes, presentation of an acknowledged scientific research plan would facilitate prompt validation by enforcement officers that activities covered by the research plan are bona fide scientific research activities and not fishing.

NMFS proposes to define ''scientific research vessel'' as a vessel owned or chartered by, and controlled by, a foreign government agency, U.S. Government agency (including NOAA or institutions designated as federally funded research and development centers), U.S. state or territorial agency, university (or other educational institution accredited by a recognized national or international accreditation body), international treaty organization, or scientific institution. The definition further provides that, if the vessel is owned or chartered and controlled by a foreign government, that vessel would fit within the definition only if the vessel has scientific research as its exclusive mission during the scientific cruise in question, and the vessel operations are undertaken pursuant to a scientific research plan. These conditions are necessary to prevent commercial fishing conducted from vessels controlled by foreign scientific agencies from qualifying for the scientific research activity exemption merely because the vessel is owned or controlled by a governmental agency. A definition for ''scientific cruise'' is also proposed in this rule.

''Exempted fishing,'' an activity regulated under fishery management plans (FMPs) prepared by Regional Fishery Management Councils (Councils) or the Secretary of Commerce, would be defined in this proposed rule for domestic vessels only. Exempted fishing is currently referred to as ''experimental fishing'' in certain existing regulations in 50 CFR part 285 and 50 CFR chapter VI. NMFS anticipates that individual FMPs that currently authorize ''experimental fishing'' would be amended, as necessary, to replace existing references to ''experimental fishing'' with references to ''exempted fishing,'' and to standardize terminology and procedures for issuance of EFPs by replacing existing regulatory text with references to these proposed additions to 50 CFR part 620. In the absence of specific regulations for each fishery, these proposed procedures would be followed. Authority to allow exempted fishing in any regulated fishery would be established through the governing FMP and/or its implementing regulations.

Because exempted fishing has sometimes been confused with scientific research activity, this proposed rule would clarify NMFS' view that these are distinct activities. If an activity is undertaken in furtherance of exempted fishing, it would not be considered scientific research activity. NMFS proposes that collection of fish for display purposes, if otherwise prohibited by regulations governing that fishery, would fall within the scope of the definition for ''exempted fishing.'' Standard procedures for application for EFPs under FMPs, issuance of EFPs by NMFS, and reporting requirements for persons fishing under an EFP are proposed in this rule. Prior to issuance of an EFP, an appropriate consideration of environmental impacts and of consistency with applicable law would be required.

In addition, NMFS proposes to define ''exempted educational activity'' for the domestic fishing regulations to distinguish between commercially oriented exempted fishing and those activities of very limited scope and duration, conducted by educational institutions, that may involve activities that are not in accordance with regulations implemented under authority of an FMP. Authority to allow exempted educational activity in any regulated fishery would be established through the governing FMP and/or its implementing regulations. Such activities, if determined to be valid by the appropriate NMFS Director or Regional Director, after consideration of consistency with the goals and objectives of the FMP and with other applicable law, could be authorized in writing by the Director or Regional Director to the sponsoring educational institution. The authorization would be required to be in the possession of the participant during the conduct of the exempted educational activity.

Examples of potentially valid exempted educational activities include:

(1) A small-scale trawl demonstration conducted for teaching purposes by a university vessel at a time fishing is closed to trawl gear; and (2) collection of a small number of fish for examination for educational purposes, when the fish are below a minimum size standard, in excess of bag limits, or during seasonal closures specified in regulations. The intent is to allow bona fide educational activities to take place, with minimal advance notice and paperwork, while still protecting the fishery resources. Fish harvested under authorized, exempted educational activities could not be traded, bartered, or sold. Activities outside the scope of the authorization would be considered ''fishing'' and subject to fishing regulations. These proposed procedures would serve as guidelines for fisheries until the regulations governing each fishery are amended to reflect this proposed rule.

NMFS proposes to redefine ''Center Director'' in the foreign fishing regulations at 50 CFR part 611 to reflect the correct title of ''Fishery Science Center Director'', note that there are five centers, and add definitions for ''Center Director'' and ''Regional Director'' to the domestic regulations at 50 CFR part 620. Appropriate tables are proposed to be amended in 50 CFR part 611.

NMFS also proposes to define ''Director'' to clarify that, where regulations so specify, the Director, Office of Fisheries Conservation and Management, NMFS, may be the appropriate contact, rather than a Regional Director. This would allow the Director, Office of Fisheries Conservation and Management, to process requests for exempted fishing or exempted educational activities on Atlantic highly migratory species (sharks, billfishes, swordfish, and tunas); management of these species is the responsibility of that office, rather than one of the NMFS regional offices.

This proposed rule is not intended to inhibit or prevent any scientific research activity that is conducted by a scientific research vessel, as defined in this proposed rule, nor is it intended to prevent exempted fishing conducted under an EFP issued under authority of an FMP or exempted educational activities authorized by the Director or Regional Director, consistent with the goals and objectives of an FMP. Proposed procedures for application for, and issuance of, EFPs and authorizations for exempted educational activities are intended to standardize these procedures nationwide for equity, clarity, and enforcement purposes.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, because it serves only to define terms; clarify distinctions between scientific research activity, exempted fishing, and exempted educational activities; and standardize procedures for applying for and issuing EFPs and authorizations for exempted educational activities as allowed under FMPs. As a result, a regulatory flexibility analysis was not prepared.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This collection-of-information requirement has been submitted to the Office of Management and Budget (OMB) for approval. The public reporting burden for this collection of information is estimated: (1) To average 1 hour per response to send NMFS a copy of a scientific research plan and provide a copy of the cruise report or research publication; (2) to average 1 hour per response to complete an application for an EFP or authorization for an exempted educational activity; and (3) to average 1 hour per response to collect information and provide a report at the conclusion of exempted fishing. Send comments regarding this burden estimate, or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**). 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 620

Fisheries, Fishing.

Dated: March 7, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 611 and 620 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 is revised to read as follows:

Authority: 16 U.S.C. 971 *et seq.*, 1361 *et seq.*, 1801 *et seq.*, and 22 U.S.C. 1971 *et seq.*

2. In § 611.2, the definition for ''Center Director'' is revised and definitions for ''Director'', ''Scientific cruise'', ''Scientific research activity'', ''Scientific research plan'', and ''Scientific research vessel'', are added, in alphabetical order, to read as follows:

§ 611.2 Definitions.

* * * * *

Center Director means the Director of one of the five NMFS Fisheries Science Centers described in Table 1 of Appendix A to this subpart, or a designee.

* * * * *

Director means the Director of the Office of Fisheries Conservation and Management, 1315 East-West Highway, Silver Spring, MD 20910.

* * * * *

Scientific cruise means the period of time during which a scientific research vessel is operated in furtherance of a scientific research project, beginning when the vessel leaves port to undertake the project and ending when the vessel completes the project as provided for in the applicable scientific research plan.

Scientific research activity is, for the purposes of this part, an activity in furtherance of a scientific fishery investigation or study that would meet the definition of fishing under the Magnuson Act, but for the exemption applicable to scientific research activity conducted from a scientific research vessel. Scientific research activity includes, but is not limited to, sampling, collecting, observing, or surveying the fish or fishery resources within the U.S. EEZ, at sea, on board scientific research vessels, to increase scientific knowledge of the fishery resources or their environment, or to test a hypothesis as part of a planned, directed investigation or study conducted according to methodologies generally accepted as appropriate for scientific research. At-sea scientific fishery investigations address one or more issues involving taxonomy, biology, physiology, behavior, disease, aging, growth, mortality, migration, recruitment, distribution, abundance, ecology, stock structure, bycatch, and catch estimation of fish and shellfish (invertebrate) species considered to be a component of the fishery resources within the U.S. EEZ. Scientific research activity does not include the collection and retention of fish outside the scope of the

applicable research plan, or the testing of fishing gear. Data collection designed to capture and land quantities of fish or invertebrates for product development, market research, and/or public display are not scientific research activities and must be permitted under exempted fishing procedures. For foreign vessels, such data collection activities are considered scientific research if they are carried out in full cooperation with the United States.

Scientific research plan means a detailed, written formulation, prepared in advance of the research, for the accomplishment of a scientific research project. At a minimum, a sound scientific research plan should include:

(1) A description of the nature and objectives of the project, including the hypothesis or hypotheses to be tested;

(2) The experimental design of the project, including a description of the methods to be used, the type and class of any vessel(s) to be used, and a description of sampling equipment;

(3) The geographical area(s) in which the project is to be conducted;

(4) The expected date of first appearance and final departure of the research vessel(s) to be employed, and deployment and removal of equipment, as appropriate;

(5) The quantity and species of fish to be taken and their intended disposition, and, if significant amounts of a managed species or species otherwise restricted by size or sex are needed, an explanation of such need;

(6) The name, address, and telephone/telex/fax number of the sponsoring organization and its director;

(7) The name, address, and telephone/telex/fax number, and curriculum vitae of the person in charge of the project and, where different, the person in charge of the research project on board the vessel; and

(8) The identity of any vessel(s) to be used including, but not limited to, the vessel's name, official documentation number and IRCS, home port, and name, address, and telephone number of the owner and master.

Scientific research vessel means a vessel owned or chartered by, and controlled by, a foreign government agency, U.S. Government agency (including NOAA or institutions designated as federally funded research and development centers), U.S. state or territorial agency, university (or other educational institution accredited by a recognized national or international accreditation body), international treaty organization, or scientific institution. In order for a vessel that is owned or chartered and controlled by a foreign government to meet this definition, the vessel must have scientific research as its exclusive mission during the scientific cruise in question and the vessel operations must be conducted in accordance with a scientific research plan.

* * * * *

3. In § 611.7, paragraphs (a)(27) and (a)(28) are redesignated as paragraphs (a)(29) and (a)(30), respectively, and new paragraphs (a)(27) and (a)(28) are added to read as follows:

§ 611.7 Prohibitions.

(a) * * *

(27) Fish in violation of the terms or conditions of any permit or authorization issued under the Magnuson Act;

(28) On a scientific research vessel, engage in fishing other than recreational fishing authorized by applicable state, territorial, or Federal regulations;

* * * * *

4. Section 611.14 is revised to read as follows:

§ 611.14 Scientific research activity.

(a) *Scientific research activity.* Persons planning to conduct scientific research activities in the EEZ that may be confused with fishing are encouraged to submit to the appropriate Regional Director, Director, or designee, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific cruise. The Regional Director, Director, or designee will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a letter of acknowledgment. This letter of acknowledgment is separate and distinct from any permit required under any other applicable law. If the Regional Director, Director, or designee, after review of a research plan, determines that it does not constitute scientific research activity but rather fishing, the Regional Director, Director, or designee will inform the applicant as soon as practicable and in writing. The Regional Director, Director, or designee may also make recommendations to revise the research plan to make the cruise acceptable as scientific research activity. In order to facilitate identification of activity as scientific research, persons conducting scientific research activities are advised to carry a copy of the scientific research plan and the letter of acknowledgment on board the scientific research vessel. Activities conducted in accordance with a scientific research plan acknowledged by such a letter are presumed to be scientific research activities. The presumption may be overcome by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

(b) *Reports.* Persons conducting scientific research are requested to submit a copy of any cruise report or other publication created as a result of the cruise, including the amount, composition, and disposition of their catch, to the appropriate Center Director.

5. Table 1 to Appendix A to subpart A of part 611 is revised to read as follows:

Appendix A to Subpart A—Addresses, Areas of Responsibility and Communications

TABLE 1.—ADDRESSES

NMFS regional directors	NMFS Fisheries Science Center directors	U.S. Coast Guard commanders
Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298; Telex: 940007; Telephone: 508–281–9300; FAX: 508–281–9333;.	Director, Northeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 166 Water Street, Woods Hole, MA 02543–1097, Attn: Observer Program; Telex: 322200; Telephone: 508–548–5123; FAX: 508–548–5124.	Commander, Atlantic Area, U.S. Coast Guard, Governor's Island, New York, NY 10004; Telex: 126831; Telephone: 212–668–7877.
Director, Southeast Region, National Marine Fisheries Service, NOAA, 9721 Exec. Center Drive N., St. Petersburg, FL 33702; Telephone: 813–570–5301; FAX: 813–570–5300.	Director, Southeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 75 Virginia Beach Drive, Miami, FL 33149–1003; Telephone: 305–361–5761; FAX: 305–361–4219.	Commander, Atlantic Area, U.S. Coast Guard, New York, NY 10004; Telex: 126831; Telephone: 212–668–7877.

TABLE 1.—ADDRESSES—Continued

NMFS regional directors	NMFS Fisheries Science Center directors	U.S. Coast Guard commanders
Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115; Telex: 9104442786; Telephone: 206–526–6150; FAX: 206–526–6426.	Director, Northwest Fisheries Science Center, National Marine Fisheries Service, NOAA, 2725 Montlake Boulevard East, Seattle, WA 98112–2097; Telephone: 206–442–1872; FAX: 206–442–4304.	Commander, Pacific Area, U.S. Coast Guard, Government Island, Alameda, CA 94501; Telex: 172343; Telephone: 510–437–3700; FAX: 510–437–3017
Director, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 1668, Juneau, AK 99802–1668; Telex: 09945377; Telephone: 907–586–7221; FAX: 907–586–7249.	Director, Alaska Fisheries Science Center, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 4, Seattle, WA 98115–0070; Telex: 329422; Telephone: 206–526–4000; FAX: 206–526–4004.	Commander, Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, AK 99801; Telex: 45305; Telephone: 907–586–7200 after hours:907–586–7350.
Director, Southwest Region National Marine Fisheries Service, NOAA, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213; Telephone: 310–980–4001; FAX: 310–980–4018.	Director, Southwest Fisheries Science Center, National Marine Fisheries Service, NOAA, P.O. Box 271, La Jolla, CA 92038–0271; Telephone: 619–546–7000; FAX: 619–546–7003.	Commander, Fourteenth Coast Guard District, 300 Ala Moana Blvd., Honolulu, HI 96813; Telex: 392401; Telephone: 808–546–7597.

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

6. The authority citation for part 620 continues to read as follows:

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

7. In § 620.2, definitions for ''Center Director'', ''Director'', ''Exempted educational activity'', ''Exempted fishing'', ''Regional Director'', ''Scientific cruise'', ''Scientific research activity'', ''Scientific research plan'', and ''Scientific research vessel'', are added, in alphabetical order, to read as follows:

§ 620.2 Definitions.

* * * * *

Center Director means the Director of one of the five NMFS Fisheries Science Centers.

* * * * *

Director means the Director of the Office of Fisheries Conservation and Management, 1315 East-West Highway, Silver Spring, MD 20910.

* * * * *

Exempted educational activity means an activity, conducted by an educational institution accredited by a recognized national or international accreditation body, of limited scope and duration, that is otherwise prohibited by part 285 or chapter VI of this title, but that is authorized by the appropriate Director or Regional Director for educational purposes.

Exempted or experimental fishing means fishing from a vessel of the United States that involves activities otherwise prohibited by part 285 or chapter VI of this title, but that are authorized under an exempted fishing permit (EFP). These regulations refer exclusively to exempted fishing. References in 50 CFR part 285 and elsewhere in this chapter to experimental fishing mean exempted fishing under this part.

* * * * *

Regional Director means the Director of one of the five NMFS Regions.

* * * * *

Scientific cruise means the period of time during which a scientific research vessel is operated in furtherance of a scientific research project, beginning when the vessel leaves port to undertake the project and ending when the vessel completes the project as provided for in the applicable scientific research plan.

Scientific research activity is, for the purposes of this part, an activity in furtherance of a scientific fishery investigation or study that would meet the definition of fishing under the Magnuson Act, but for the exemption applicable to scientific research activity conducted from a scientific research vessel. Scientific research activity includes, but is not limited to, sampling, collecting, observing, or surveying the fish or fishery resources within the U.S. EEZ, at sea, on board scientific research vessels, to increase scientific knowledge of the fishery resources or their environment, or to test a hypothesis as part of a planned, directed investigation or study conducted according to methodologies generally accepted as appropriate for scientific research. At-sea scientific fishery investigations address one or more issues involving taxonomy, biology, physiology, behavior, disease, aging, growth, mortality, migration, recruitment, distribution, abundance, ecology, stock structure, bycatch, and catch estimation of fish and shellfish (invertebrate) species considered to be a component of the fishery resources within the U.S. EEZ. Scientific research activity does not include the collection and retention of fish that is outside the scope of the applicable research plan, or the testing of fishing gear. Data collection designed to capture and land quantities of fish or invertebrates for product development, market research, and/or public display are not scientific research activities and must be permitted under exempted fishing procedures.

Scientific research plan means a detailed, written formulation, prepared in advance of the research, for the accomplishment of a scientific research project. At a minimum, a sound scientific research plan should include:

(1) A description of the nature and objectives of the project, including the hypothesis or hypotheses to be tested;

(2) The experimental design of the project, including a description of the methods to be used, the type and class of any vessel(s) to be used (including the name and tonnage of vessel as soon as identified), and a description of sampling equipment;

(3) The geographical area(s) in which the project is to be conducted;

(4) The expected date of first appearance and final departure of any research vessel(s) to be employed, and deployment and removal of equipment, as appropriate;

(5) The quantity and species of fish to be taken and their intended disposition, and, if significant amounts of a managed species or species otherwise restricted by size or sex are needed, an explanation of such need;

(6) The name, address, and telephone/telex/fax number of the sponsoring organization and its director;

(7) The name, address, telephone/telex/fax number, and curriculum vitae of the person in charge of the project and, where different, the person in charge of the research project on board the vessel; and

(8) The identity of any vessel(s) to be used, including, but not limited to, the

vessel's name, official documentation number or state registration number, home port, and name, address, and telephone number of the owner and master.

Scientific research vessel means a vessel owned or chartered by, and controlled by, a foreign government agency, U.S. Government agency (including NOAA or institutions designated as federally funded research and development centers), U.S. state or territorial agency, university (or other educational institution accredited by a recognized national or international accreditation body), international treaty organization, or scientific institution. To meet this definition, the vessel must have scientific research as its exclusive mission during the scientific cruise in question and the vessel operations must be conducted in accordance with a scientific research plan.

* * * * *

8. In § 620.7, paragraphs (i) through (l) are added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(i) Fish in violation of the terms or conditions of any permit or authorization issued under the Magnuson Act.

(j) Fail to report catches as required while fishing pursuant to an exempted fishing permit.

(k) On a scientific research vessel, engage in fishing other than recreational fishing authorized by applicable state or Federal regulations.

(l) Trade, barter, or sell; or attempt to trade, barter, or sell fish possessed or retained while fishing pursuant to an authorization for an exempted educational activity.

9. Section 620.10 is added to read as follows:

§ 620.10 Scientific research activity, exempted fishing, and exempted educational activity.

(a) *Scientific research activity.* Nothing in this part is intended to inhibit or prevent any scientific research activity conducted by a scientific research vessel. Persons planning to conduct scientific research activities in the EEZ are encouraged to submit to the appropriate Regional Director, Director, or designee, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific cruise. The Regional Director, Director, or designee will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a letter of acknowledgment. This letter of acknowledgment is separate and distinct from any permit required by any other applicable law. If the Regional Director, Director, or designee, after review of a research plan, determines that it does not constitute scientific research but rather fishing, the Regional Director, Director, or designee will inform the applicant as soon as practicable and in writing. The Regional Director, Director, or designee may also make recommendations to revise the research plan to make the cruise acceptable as scientific research activity or recommend the applicant request an EFP. In order to facilitate identification of activity as scientific research, persons conducting scientific research activities are advised to carry a copy of the scientific research plan and the letter of acknowledgment on board the scientific research vessel. Activities conducted in accordance with a scientific research plan acknowledged by such a letter are presumed to be scientific research activity. The presumption may be overcome by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

(b) *Exempted fishing*—(1) *General.* A NMFS Regional Director or Director may authorize, for limited testing, public display, data collection, and/or exploratory purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an exempted fishing permit (EFP) issued by a Regional Director or Director in accordance with the criteria and procedures specified in this section. The Regional Director or Director may charge a fee to recover the administrative expenses of issuing an EFP. The amount of the fee will be calculated, at least annually, in accordance with procedures of the NOAA Handbook for determining administrative costs of each special product or service; the fee may not exceed such costs. Persons may contact the appropriate Regional Director or Director to find out the applicable fee.

(2) *Application.* An applicant for an EFP shall submit a completed application package to the appropriate Regional Director or Director, as soon as practicable and at least 60 days before the desired effective date of the EFP. Submission of an EFP application less than 60 days before the desired effective date of the EFP may result in a delayed effective date because of review requirements. The application package must include payment of any required fee as specified by paragraph (b)(1) of this section, and a written application that includes, but is not limited to, the following information:

(i) The date of the application;

(ii) The applicant's name, mailing address, and telephone number;

(iii) A statement of the purposes and goals of the exempted fishery for which an EFP is needed, including justification for issuance of the EFP;

(iv) For each vessel to be covered by the EFP as soon as the information is available and before operations begin under the EFP:

(A) A copy of the U.S. Coast Guard documentation, state license, or registration of each vessel, or the information contained on the appropriate document; and

(B) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel;

(v) The species (target and incidental) expected to be harvested under the EFP, the amount(s) of such harvest necessary to conduct the exempted fishing, the arrangements for disposition of all regulated species harvested under the EFP, and any anticipated impacts on marine mammals or endangered species;

(vi) For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used; and

(vii) The signature of the applicant.

(viii) The Regional Director or Director, as appropriate, may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application or an application for which the appropriate fee has not been paid will not be considered until corrected in writing and the fee paid. An applicant for an EFP need not be the owner or operator of the vessel(s) for which the EFP is requested.

(3) *Issuance.* (i) The Regional Director or Director, as appropriate, will review each application and will make a preliminary determination whether the application contains all of the required information and constitutes an activity appropriate for further consideration. If the Regional Director or Director finds that any application does not warrant further consideration, both the applicant and the affected Council(s) will be notified in writing of the reasons for the decision. If the Regional Director or Director determines that any application warrants further consideration, notification of receipt of the application will be published in the Federal Register with a brief description of the proposal, and the intent of NMFS to issue an EFP. Interested persons will be

given a 15- to 45-day opportunity to comment. The notification may establish a cut-off date for receipt of additional applications to participate in the same, or a similar, exempted fishing activity. The Regional Director or Director also will forward copies of the application to the Council(s), the U.S. Coast Guard, and the appropriate fishery management agencies of affected states, accompanied by the following information:

(A) The effect of the proposed EFP on the target and incidental species, including the effect on any total allowable catch;

(B) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity; and

(C) Biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on marine mammals and threatened or endangered species.

(ii) If the application is complete and warrants additional consultation, the Regional Director or Director may consult with the appropriate Council(s) concerning the permit application during the period in which comments have been requested. The Council(s) or the Director or Regional Director shall notify the applicant in advance of any meeting at which the application will be considered, and offer the applicant the opportunity to appear in support of the application.

(iii) As soon as practicable after receiving responses from the agencies identified above, and/or after the consultation, if any, described in paragraph (b)(3)(ii) of this section, the Regional Director or Director shall notify the applicant in writing of the decision to grant or deny the EFP, and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(A) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application; or

(B) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect the well-being of the stock of any regulated species of fish, marine mammal, or threatened or endangered species in a significant way; or

(C) Issuance of the EFP would have economic allocation as its sole purpose; or

(D) Activities to be conducted under the EFP would be inconsistent with the intent of this section, the management objectives of the FMP, or other applicable law; or

(E) The applicant has failed to demonstrate a valid justification for the permit; or

(F) The activity proposed under the EFP could create a significant enforcement problem.

(iv) The decision of a Regional Director or Director to grant or deny an EFP is the final action of NMFS. If the permit, as granted, is significantly different from the original application, or is denied, NMFS may publish notification in the Federal Register describing the exempted fishing to be conducted under the EFP or the reasons for denial.

(v) *Terms and conditions of EFPs.* The Regional Director or Director may attach terms and conditions to the EFP consistent with the purpose of the exempted fishing, including, but not limited to:

(A) The maximum amount of each regulated species that can be harvested and landed during the term of the EFP, including trip limitations, where appropriate;

(B) The number, size(s), name(s), and identification number(s) of the vessel(s) authorized to conduct fishing activities under the EFP;

(C) The time(s) and place(s) where exempted fishing may be conducted;

(D) The type, size, and amount of gear that may be used by each vessel operated under the EFP;

(E) The condition that observers, a vessel monitoring system, or other electronic equipment be carried on board vessels operated under an EFP, and any necessary conditions, such as predeployment notification requirements;

(F) Reasonable data reporting requirements;

(G) Other conditions as may be necessary to assure compliance with the purposes of the EFP, consistent with the objectives of the FMP and other applicable law; and

(H) Provisions for public release of data obtained under the EFP that are consistent with NOAA confidentiality of statistics procedures as set out at part 603 of this chapter. An applicant may be required to waive the right to confidentiality of information gathered while conducting exempted fishing as a condition of an EFP.

(4) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is effective for no longer than 1 year, unless revoked, suspended, or modified. EFPs may be renewed following the application procedures in this section.

(5) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(6) *Transfer.* EFPs issued under this section are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(7) *Inspection.* Any EFP issued under this section must be carried on board the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(8) *Sanctions.* Failure of a permittee to comply with the terms and conditions of an EFP may be grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP for enforcement purposes will be governed by 15 CFR part 904, subpart D.

(c) *Reports.* (1) Persons conducting scientific research activity are requested to submit a copy of any cruise report or other publication created as a result of the cruise, including the amount, composition, and disposition of their catch, to the appropriate Center Director.

(2) Persons fishing under an EFP are required to report their catches to the appropriate Regional Director or Director, as specified in the EFP.

(d) *Exempted educational activities*—(1) *General.* A NMFS Regional Director or Director may authorize, for educational purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. The decision of a Regional Director or Director to grant or deny an exempted educational activity authorization is the final action of NMFS. Exempted educational activities may not be conducted unless authorized in writing by a Regional Director or Director in accordance with the criteria and procedures specified in this section. Such authorization will be issued without charge.

(2) *Application.* An applicant for an exempted educational activity authorization shall submit to the appropriate Regional Director or Director, at least 15 days before the desired effective date of the authorization, a written application that includes, but is not limited to, the following information:

(i) The date of the application;

(ii) The applicant's name, mailing address, and telephone number;

(iii) A brief statement of the purposes and goals of the exempted educational activity for which authorization is requested, including a general description of the arrangements for disposition of all species collected;

(iv) Evidence that the sponsoring institution is a valid educational institution, such as accreditation by a recognized national or international accreditation body;

(v) The scope and duration of the activity;

(vi) For each vessel to be covered by the authorization:

(A) A copy of the U.S. Coast Guard documentation, state license, or registration of the vessel, or the information contained on the appropriate document;

(B) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel;

(vii) The species and amounts expected to be caught during the exempted educational activity;

(viii) For each vessel covered by the authorization, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used; and

(ix) The signature of the applicant.

(x) The Regional Director or Director may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application will not be considered until corrected in writing.

(3) *Issuance*. (i) The Regional Director or Director, as appropriate, will review each application and will make a determination whether the application contains all of the required information, is consistent with the goals, objectives, and requirements of the FMP or regulations and other applicable law, and constitutes a valid exempted educational activity. The applicant will be notified in writing of the decision within 5 working days of receipt of the application.

(ii) The Regional Director or Director may attach terms and conditions to the authorization, consistent with the purpose of the exempted educational activity, including, but not limited to:

(A) The maximum amount of each regulated species that may be harvested;

(B) The time(s) and place(s) where the exempted educational activity may be conducted;

(C) The type, size, and amount of gear that may be used by each vessel operated under the authorization;

(D) Reasonable data reporting requirements;

(E) Such other conditions as may be necessary to assure compliance with the purposes of the authorization, consistent with the objectives of the FMP or regulations; and

(F) Provisions for public release of data obtained under the authorization, consistent with NOAA confidentiality of statistics procedures at part 603 of this chapter. An applicant may be required to waive the right to confidentiality of information gathered while conducting experimental fishing as a condition of an EFP.

(iii) The authorization will specify the scope of the authorized activity and will include, at a minimum, the duration, vessel(s), species and gear involved in the activity, as well as any additional terms and conditions specified under paragraph (d)(3)(ii) of this section.

(4) *Duration*. Unless otherwise specified, authorization for an exempted educational activity is effective for no longer than 1 year, unless revoked, suspended, or modified. Authorizations may be renewed following the application procedures in this section.

(5) *Alteration*. Any authorization that has been altered, erased, or mutilated is invalid.

(6) *Transfer*. Authorizations issued under this paragraph (d) are not transferable or assignable.

(7) *Inspection*. Any authorization issued under this paragraph (d) must be carried on board the vessel(s) for which it was issued or be in possession of the applicant to which it was issued while the exempted educational activity is being conducted. The authorization must be presented for inspection upon request of any authorized officer. Activities that meet the definition of fishing, despite an educational purpose, are fishing. An authorization may allow covered fishing activities; however, fishing activities conducted outside the scope of an authorization for exempted educational activities are illegal.

[FR Doc. 96–6193 Filed 3–14–96; 8:45 am]

BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 61, No. 52
Friday, March 15, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–006–1]

Monsanto Co.; Addition of Two Genetically Engineered Insect Resistant Corn Lines to Determination of Nonregulated Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Animal and Plant Health Inspection Service is announcing that it has added two additional genetically engineered, insect resistant corn lines to its August 22, 1995, determination that the Monsanto Company's corn line MON 80100 need no longer be regulated. The effect of this action is that two additional insect resistant corn lines designated as MON 809 and MON 810, which have been modified by the incorporation of genetic material described by the Monsanto Company, will no longer be subject to regulation under 7 CFR part 340.

FOR FURTHER INFORMATION CONTACT: Dr. Ved Malik, Biotechnologist, Animal and Plant Health Inspection Service, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612.

SUPPLEMENTARY INFORMATION: On September 5, 1995, the Animal and Plant Health Inspection Service (APHIS) published a notice in the Federal Register (60 FR 46107–46108, Docket No. 95–041–2) announcing the issuance of a determination effective August 22, 1995, that an insect resistant corn line developed by the Monsanto Company (Monsanto) designated as corn line MON 80100, does not present a plant pest risk and is not a regulated article under the regulations contained in 7 CFR part 340. This action was in response to a petition submitted by Monsanto seeking a determination from APHIS that its corn line MON 80100 no longer be deemed a regulated article, based on an absence of plant pest risk. The effect of that action was that the subject corn line and its progeny would no longer be regulated under the regulations in 7 CFR part 340.

The two additional corn lines that are the subject of this notice, MON 809 and MON 810, were identified in Monsanto's previously submitted petition (APHIS Petition No. 95–093–01p) for corn line MON 80100. On January 17, 1996, APHIS received additional information and field test data in a petition (APHIS Petition No. 96–017–01p) in support of nonregulated status under 7 CFR part 340 for corn lines MON 809 and MON 810. As described by Monsanto, corn lines MON 809 and MON 810 express a CryIA(b) protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *kurstaki* which confers resistance to European corn borer. The subject corn lines were generated through use of the particle acceleration transformation system to insert plasmid vectors PV–ZMBK07 and PV–ZMGT10, the same vectors used to transform corn line MON 80100 for which the August 22, 1995, determination of nonregulated status was issued by APHIS.

Corn lines MON 809 and MON 810 have been evaluated in field tests conducted in 1993 and 1994 under APHIS permits and notifications. Reports from field trials and other data indicate that the subject corn lines grow normally, exhibit the expected morphological, reproductive, and physiological properties, and do not have unexpected pest or disease susceptibility or symptoms. Therefore, the APHIS determination of nonregulated status of August 22, 1995, applies as well to Monsanto's two new transformed corn lines, MON 809 and MON 810.

Done in Washington, DC, this 11th day of March 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–6201 Filed 3–14–96; 8:45 am]

BILLING CODE 3410–34–P

Food and Consumer Service

Child Nutrition Programs—Income Eligibility Guidelines

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 1996 through June 30, 1997. These guidelines are used by schools, institutions, and centers participating in the National School Lunch Program, School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Commodity School Program. The annual adjustments are required by section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for increases in the Consumer Price Index.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FCS, USDA, Alexandria, Virginia 22302, or by phone at (703) 305–2618.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget. These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556 and No. 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)

of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child and Adult Care Food Program (7 CFR Part 226), and Commodity School Program (7 CFR Part 210), and the guidelines for free milk in the Special Milk Program for Children (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to serve free meals to all children from any household with income at or below 130 percent of the poverty guidelines. The Department also requires such schools and institutions to serve reduced price meals to all children from any household with income higher than 130 percent of the poverty guidelines, but at or below 185 percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program for Children may, at local option, serve free milk to all children from any household with income at or below 130 percent of the poverty guidelines.

Definition of Income

''Income,'' as the term is used in this Notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

''Income,'' as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1996 through June 30, 1997. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the 1996 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 1996 to June 30, 1997]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 CONTIGUOUS UNITED STATES, DISTRICT OF COLUMBIA, GUAM AND TERRITORIES									
1	7,740	645	149	14,319	1,194	276	10,062	839	194
2	10,360	864	200	19,166	1,598	369	13,468	1,123	259
3	12,980	1,082	250	24,013	2,002	462	16,874	1,407	325
4	15,600	1,300	300	28,860	2,405	555	20,280	1,690	390
5	18,220	1,519	351	33,707	2,809	649	23,686	1,974	456
6	20,840	1,737	401	38,554	3,213	742	27,092	2,258	521
7	23,460	1,955	452	43,401	3,617	835	30,498	2,542	587
8	26,080	2,174	502	48,248	4,021	928	33,904	2,826	652
For each add'l family member add	+2,620	+219	+51	+4,847	+404	+94	+3,406	+284	+66
ALASKA									
1	9,660	805	186	17,871	1,490	344	12,558	1,047	242
2	12,940	1,079	249	23,939	1,995	451	16,822	1,402	324
3	16,220	1,352	312	30,007	2,501	578	21,086	1,758	406
4	19,500	1,625	375	36,075	3,007	694	25,350	2,113	488
5	22,780	1,899	439	42,143	3,512	811	29,614	2,468	570
6	26,060	2,172	502	48,211	4,018	928	33,878	2,824	652
7	29,340	2,445	565	54,279	4,524	1,044	38,142	3,179	734
8	32,620	2,719	628	60,347	5,029	1,161	42,406	3,534	816
For each add'l family member add	+3,280	+274	+64	+6,068	+506	+117	+4,264	+356	+82
HAWAII									
1	8,910	743	172	16,484	1,374	317	11,583	966	223
2	11,920	994	230	22,052	1,838	425	15,496	1,292	298
3	14,930	1,245	288	27,621	2,302	532	19,409	1,618	374

INCOME ELIGIBILITY GUIDELINES—Continued

[Effective from July 1, 1996 to June 30, 1997]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
4	17,940	1,495	345	33,189	2,766	639	23,322	1,944	449
5	20,950	1,746	403	38,758	3,230	746	27,235	2,270	524
6	23,960	1,997	461	44,326	3,694	853	31,148	2,596	599
7	26,970	2,248	519	49,895	4,158	960	35,061	2,922	675
8	29,980	2,499	577	55,463	4,622	1,067	38,974	3,248	750
For each add'l family member add	+3,010	+251	+58	+5,569	+465	+108	+3,913	+327	+76

Authority: (42 U.S.C. 1758(b)(1)).

Dated: March 6, 1996.

William E. Ludwig,

Administrator.

[FR Doc. 96–6143 Filed 3–14–96; 8:45 am]

BILLING CODE 3410–30–P–M

Forest Service

Poorman Project; Including Timber Harvest, Prescribed Fire, Fish and Wildlife Habitat Improvement, and Road and Trail Construction, Helena National Forest, Lewis & Clark County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare Environmental Impact Statement.

SUMMARY: The USDA, Forest Service is gathering information and preparing an Environmental Impact Statement (EIS) for the Poorman Project located approximately 26 air miles northwest of Helena, Montana.

The Forest Service proposes to treat approximately 1450 acres with regeneration harvest treatments, 750 acres with stand replacement fire, 650 acres with commercial thinning, 4950 acres with grass/shrub/underburning, close three miles of existing road, relocate ¼ miles of existing road, construct one mile of new trail, hydromulch erosive sites along existing roads, and install other erosion control structures within the project area. Approximately 16 miles of new system road construction, and two miles of temporary road construction is needed to access treatment areas. All temporary roads will be obliterated after harvest. All new system road will be closed.

The proposal is designed to help achieve the goals and objectives of the 1986 Helena National Forest Plan and move selected areas towards the desired conditions identified from the Forest Plan. These needs are supported by the findings of the Blackfoot Landscape Analysis. The purpose is to maintain healthy, sustainable ecosystems that (1) reduce fire risk, (2) provide wildlife habitat similar to the habitat that existed when fire was a natural component of the ecosystem, (3) protect soil and water, (4) provide recreation opportunities, and (5) provide wood for people's use.

A Forest Plan amendment is proposed to change management direction for the M–1 management area. Further analysis of the proposed action and alternatives to that proposal may result in a decision(s) that include amendments to the Forest Plan.

DATES: Comments concerning the scope of the analysis should be received in writing on or before April 8, 1996.

ADDRESSES: The responsible official is Thomas J. Clifford, Forest Supervisor, Helena National Forest, Supervisor's Office, 2880 Skyway Drive, Helena, MT 59601. Phone: (406) 449–5201.

FOR FURTHER INFORMATION CONTACT: Gilbert Zepeda, District Ranger, Lincoln Ranger District, P.O. Box 219, Lincoln, MT 59639. Phone: (406) 362–4265; or Tom Andersen, Interdisciplinary Team Leader, Helena National Forest, 2880 Skyway Drive, Helena, MT 59601. Phone: (406) 449–5201.

SUPPLEMENTARY INFORMATION: The prescribed burning, and timber sale(s) with associated road construction, would occur on National Forest lands in portions of the Poorman Creek, South Fork of Humbug Creek, and Bear Creek of the Lincoln Ranger District. Included in the area being analyzed is all or portions of T.14N., R.8W., Section 26 and 32; T.14N., R.7W., Sections 30–32; T.13N., R.9W., Sections 12–14, 23 and 24; T.13N., R.8W., Sections 1–36; T.13N., R.7W., Sections 4–9, 16–23, 26–34, Montana Principle Meridian.

Portions of the prescribed fire treatment units, road construction and tree harvest are within the Crater Mountain roadless area (1604) and Nevada Mountain roadless area (1606). Approximately 3050 acres of prescribed burning, 1150 acres of tree harvest and 13 miles of specified road construction and one mile of temporary road construction are proposed in the roadless areas.

The areas of proposed tree harvest are within the following management areas:

T–1 Management areas are available and suitable for timber harvest.

T–2 Should be maintained or enhanced for big game winter range for which programmed timber harvest and prescribed fire may be used.

T–3 Should be managed in such a way to maintain and/or enhance habitat characteristics favoring elk and other big game species allowing the use of programmed timber harvest and prescribed fire.

T–5 Timber management ground that increased forage production is favored in which timber harvest and prescribed fire can be used.

W–1 Wildlife (summer and winter range) and old growth potential is optimized in the long run. Timber harvest and prescribed fire can be used only if they can be used as tools to maintain or enhance wildlife habitat values. These areas are generally classified as unsuitable for timber management.

W–2 Important spring, summer and fall habitat for big game, such as elk and deer. Forage for both big game and livestock must be provided. Timber harvest and prescribed fire can be used only to maintain or enhance habitat values.

M–1 Timber management and range or wildlife habitat improvements are currently uneconomical or environmentally infeasible.

The decisions to be made, based on this environmental analysis, are:

1. Whether or not to treat the vegetation at this time, and if so, how would the treatments be accomplished.

2. What type of transportation system will be necessary to accomplish the vegetation management objectives, while considering other resource transportation needs and objectives.

If it is decided to treat the vegetation at this time, activities may begin as early as 1997 and take up to 10 years to implement.

This EIS will tier to the Helena Forest Plan Final EIS of April 1986, that

provides program goals, objectives and standards and guidelines for conducting management activities in this area. All activities associated with the proposal will be designed to maintain or enhance the resource objectives identified in the Forest Plan and further refined in the Blackfoot Landscape Analysis.

The Forest Service is seeking information and comments from Federal, State, local agencies and other organizations or individuals who may be interested in or affected by the proposed action. The Forest Service invites written comments and suggestions on the issues for the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS. Preparation of the EIS will include the following steps:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those that have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.

Prescribed harvest treatments in this proposal include evenaged management techniques of clearcutting, with reserves, seed tree with reserves and shelterwood with reserves. Intermediate treatments such as commercial thinning will also be considered. Prescribed burning will be used to treat nonforested and forested vegetation. Alternatives to this proposal will include the ''no action'' alternative, in which none of the proposed treatments would be implemented. Other alternatives will examine variations in the location, amount and method of vegetative management.

The preliminary issues identified are:

1. The effects on forest health and sustaining ecosystems.
2. The effects on recreation and visual resources.
3. The effects on wildlife.
4. The effects on the roadless and wilderness character of the Crater Mountain and Nevada Mountain Roadless Areas.
5. The effects on fish, water quality, and riparian areas.
6. The effects on project area economics.

The Forest Service will analyze and disclose in the DEIS and FEIS the environmental effects of the proposed action and a reasonable range of alternatives. The DEIS and FEIS will disclose the direct, indirect and cumulative environmental effects of each alternative and its associated site specific mitigation measures.

Public participation is especially important at several points of the analysis. Interested parties may visit with the Forest Service officials at any time during the analysis. However, two periods of time are specifically identified for the receipt of comments. The first comment period is during the scoping process when the public is invited to give written comments to the Forest Service. The Forest Service will also conduct public open houses in Helena on March 27, 1996 at the Helena National Forest Supervisors Office, 2880 Skyway Drive, and in Lincoln on March 28, 1996 at the Lincoln Community Center. Open houses will be between 6 and 8 p.m. The scoping period ends on April 8, 1996. The second review period is during the 45 day review of the DEIS when the public is invited to comment on the DEIS.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in September 1996. At that time, the EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the DEIS will be 45 days from the date the notice of availability is published in the Federal Register.

At this early stage in the scoping process, the Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviews of DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Secondly, environmental objections that could be raised at the draft environmental impact statement stage, but that are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th cir. 1986) and Wisconsin *Heritages, Inc.* v. *Harris,* 490 F. Supp. 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is expected to be filed in February 1997.

Dated: March 6, 1996.

Thomas J. Clifford,

Forest Supervisor, Helena National Forest.

[FR Doc. 96–6165 Filed 3–14–96; 8:45 am]

BILLING CODE 3410–11–M

Rural Utilities Service

Information Collection Activities; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on certain information collections for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Interested persons are invited to submit comments on or before May 14, 1996.

ADDRESSES: Please address written comments to: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave., SW., AG Box 1522, Washington, DC 20250–1522. Telephone: (202) 720–0736. Comments may also be faxed to (202) 720–4120. Comments should identify the OMB control number.

Requests for copies of an information collection should be directed to Dawn Wolfgang, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave., SW., AG Box 1522, Washington, DC 20250–1522. Telephone: (202) 720–0812. Fax: (202) 720–4120.

FOR FURTHER INFORMATION CONTACT: Dawn D. Wolfgang, Management Analyst, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave.,

SW., AG Box 1522, Washington, DC 20250–1522. Telephone: (202) 720–0812.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collection that RUS is submitting to OMB for extension and/or revision to currently approved information collections, as appropriate.

Comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of 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.

The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) expiration date; (4) type of request; (5) abstract of the information collection activity; (6) respondents; and (7) estimate of burden:

Title: Report of Progress of Construction and Engineering Services and Engineer's Monthly Report of Substation Progress.

OMB Control Number: 0572–0014.

Expiration Date: April 30, 1996.

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

Abstract: The Rural Utilities Service (RUS) manages programs in accordance with the Rural Electrication Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended, and as prescribed by OMB Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables.

The Act authorizes RUS to lend funds for construction of various facilities under terms and conditions which will safeguard the security of the loans. One method of safeguarding loan security is to see that the facilities for which funds are loaned are actually constructed.

RUS therefore requires borrowers to submit RUS Form 178, Report of Progress of Construction and Engineering Services, and RUS Form 457, Engineer's Monthly Report of Substation Progress. These forms keep RUS abreast of progress on these construction projects on a month-by-month basis. The frequency of the report allows RUS to detect any potential problems before they reach a critical stage and to make the necessary adjustments to place construction back on schedule.

Respondents: Small business or organizations.

Annual Reporting Burden:

RUS Form 178:

Estimated Number of Respondents: 60.

Estimated Number of Responses per Respondent: 10.

Estimated Total Annual Burden on Respondents: 300 hours.

RUS Form 457:

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 10.

Estimated Total Annual Burden on Respondents: 500 hours.

Estimated Total Annual Burden on Respondents: 800 hours.

Title: Lien Accommodations and Subordinations.

OMB Control Number: 0572–0100.

Expiration Date: May 31, 1996.

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

Abstract: The RE Act of 1936, as amended, authorized and empowers the Administrator of the Rural Utilities Service to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service. The RE Act also authorizes and empowers the Administrator of RUS to provide financial assistance to borrowers for purposes provided in the RE Act by accommodating or subordinating loans made by the National Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies.

Title 7 Part 1717, subparts R and S, sets forth policy and procedure to facilitate and support borrowers' efforts to obtain private sector financing of their capital needs, to allow borrowers greater flexibility in the management of their business affairs without compromising RUS loan security, and to reduce the cost to borrowers, in terms of time, expense and paperwork, of obtaining lien accommodations and subordinations.

Respondents: Small business or organizations.

Annual Reporting Burden:

Estimated Number of Respondents: 30.

Estimated Total Burden on Respondents: 100 hours.

Estimated Number of Responses per Respondent: There are a number of components associated with this information collection. Not all apply to every respondent.

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

Dated: March 8, 1996.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 96–6182 Filed 3–14–96; 8:45 am]

BILLING CODE 3410–15–P

Municipal Interest Rates for the Second Quarter of 1996

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the second quarter of 1996.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the second calendar quarter of 1996.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning April 1, 1996, and ending June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, room 2230–s, 14th Street & Independence Avenue, SW. AgBox 1522, Washington, DC 20250–1522. Telephone: 202–720–1928. FAX: 202–720–4120. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the second calendar quarter of 1996 for municipal rate electric loans. Pursuant to RUS regulations at 7 CFR 1714.4, each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to 7 CFR 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the first Friday of the last month before the beginning of the quarter.

In accordance with 7 CFR 1714.5, the interest rates are published as shown in the following table for all interest rate terms that begin at any time during the second calendar quarter of 1996.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2016 or later	5.375
2016	5.375
2015	5.375
2014	5.250
2013	5.250
2012	5.250
2011	5.125
2010	5.125
2009	5.000
2008	4.875
2007	4.750
2006	4.625
2005	4.500
2004	4.375
2003	4.375
2002	4.250
2001	4.125
2000	4.000
1999	3.875
1998	3.625
1997	3.250

Dated: March 11, 1996.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 96–6264 Filed 3–14–96; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 805]

Grant of Authority for Subzone Status; Citgo Asphalt Refinery Company, (Oil Refinery), Chatham County, GA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Savannah Airport Commission, grantee of Foreign-Trade Zone 104, for authority to establish special-purpose subzone status at the oil refinery of CITGO Asphalt Refinery Company located in Chatham County (Savannah area), Georgia, was filed by the Board on October 20, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 62–95, 60 FR 55698, 11–2–95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 104C) at the CITGO Asphalt Refinery Company oil refinery, in Chatham County (Savannah area), Georgia, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000 and #2709.00.2000 which are used in the production of asphalt and certain intermediate fuel products (examiners report, Appendix D);

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 8th day of March 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–6285 Filed 3–14–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 806]

Grant of Authority for Subzone Status; Citgo Asphalt Refinery Company, (Oil Refinery), Gloucester County, NJ

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the South Jersey Port Corporation, grantee of Foreign-Trade Zone 142, for authority to establish special-purpose subzone status at the oil refinery of CITGO Asphalt Refinery Company located in Gloucester County (Paulsboro area), New Jersey, was filed by the Board on October 20, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 63–95, 60 FR 55698, 11–2–95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 142B) at the CITGO Asphalt Refinery Company oil refinery, in Gloucester County (Paulsboro area), New Jersey, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000 and # 2709.00.2000 which are used in the production of asphalt and certain intermediate fuel products (examiners report, Appendix D);

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 8th day of March 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–6286 Filed 3–14–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 19–96]

Foreign-Trade Zone 46—Cincinnati, OH; Application for Subzone Status, Pioneer Industrial Components, Inc., Facilities, (Automotive Audio Products), Springboro, OH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign Trade Zone, Inc., grantee of FTZ 46, requesting special-purpose subzone status for the automotive audio products manufacturing facilities of Pioneer Industrial Components, Inc. (PIC), located in Springboro, Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 8, 1996.

The proposed subzone would consist of PIC's two facilities in southwest Ohio: Site 1—manufacturing plant (120,000 sq.ft./40 acres)—100 Pioneer Boulevard, Springboro (Warren County), Ohio, some 15 miles south of Dayton; and, Site 2—warehouse (12,800 sq.ft./6 acres)—315–317 Pioneer Boulevard, Springboro, about 4 blocks south of Site 1. The facilities (305 employees) are used to produce automotive compact disc (CD) players, cassette/radios, CD/radios, CD/cassette/radios, AM/FM radios, and audio amplifiers for export and the domestic market. The production process involves assembly, testing, quality control, and packaging. At the outset, some 60 percent of the components would be purchased from abroad, including: Inductors/coils, transformers, capacitors, resistors, transistors, insulators, PC boards, light emitting diodes, fuses, diodes, liquid crystal displays, integrated circuits, switches, knobs/buttons, relays, connectors, fasteners, and other parts of radio/CD players (duty rate range: free—9.8%).

Zone procedures would exempt PIC from Customs duty payments on the foreign components used in the export production (about 30% of total). On its domestic sales, the company would be able to choose the duty rates that apply to the finished automotive audio products (3.1–4.9%) for the foreign inputs noted above. The motor vehicle duty rate (2.5%) would apply to finished audio products that are shipped to U.S. motor vehicle assembly plants with subzone status for inclusion into finished motor vehicles under zone procedures. Zone procedures would also exempt certain merchandise from certain ad valorem inventory taxes. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 14, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period May 29, 1996.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Room 9504, 550 Main Street, Cincinnati, OH 45202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230–0002.

Dated: March 11, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–6284 Filed 3–14–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[C–201–505]

Porcelain-on-Steel Cookingware From Mexico; Final Results of New Shipper Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Final Results of New Shipper Countervailing Duty Administrative Review.

SUMMARY: On January 19, 1996, the Department of Commerce (the Department) published in the Federal Register its preliminary results of a new shipper administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico for Esmaltaciones San Ignacio S.A. (San Ignacio). The review covers the period January 1, 1995 through June 30, 1995. We have completed this review and determine the net subsidy to be zero for San Ignacio. The Department will issue appropriate liquidation instructions to the U.S. Customs Service with respect to all shipments of the subject merchandise by San Ignacio.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Norma Curtis or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1996, the Department published in the Federal Register (61 FR 1356) the preliminary results of its new shipper administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico. The Department has now completed this administrative review pursuant to section 751 (a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and in accordance with interim regulations 19 CFR 355.22(j)(2) (60 FR 25130 (May 11, 1995)). We invited interested parties to comment on the preliminary results. We received no comments. The review covers the period January 1, 1995 through June 30, 1995. The review involves one company and nine programs.

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 Act by the Uruguay Round Agreements Act.

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookingware from Mexico. The products are porcelain-on-steel cookingware (except teakettles), 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. During the review period, such merchandise was classifiable under item number 7323.94.0020 of the Harmonized Tariff

Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Based upon our analysis of the questionnaire response we determine the following: Programs Found Not To Be Used

In the preliminary results, we found that San Ignacio did not apply for or receive benefits under the following programs during the period of review:

A. Banco Nacional de Comercio Exterio, S.N.C. (Bancomext)
B. Certificates of Fiscal Promotion (CEPROFI)
C. PITEX
D. Other Bancomext Preferential Financing
E. State Tax Incentives
F. Article 15 Loans
G. NAFINSA FOGAIN-type Financing
H. NAFINSA FONEI-type Financing
I. FONEI

Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

Final Results of Review

For the period January 1, 1995 through June 30, 1995, we determine the net subsidy to be zero for San Ignacio. The Department will issue appropriate liquidation instructions to the Customs Service with respect to all shipments of the subject merchandise by San Ignacio.

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from San Ignacio entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. The cash deposit rates for all other producers/exporters remain unchanged from the last completed administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)).

Dated: March 5, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–6287 Filed 3–14–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 022296A]

Small Takes of Marine Mammals Incidental to Specified Activities; Titan II and IV Launch Vehicles at Vandenberg Air Force Base, CA

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Air Force for authorization to take small numbers of seals and sea lions by harassment incidental to launches of Titan II and Titan IV launch vehicles at Space Launch Complex 4 (SLC–4), Vandenberg Air Force Base, CA (Vandenberg). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the Air Force to incidentally take, by harassment, small numbers of harbor seals, California sea lions, northern elephant seals, northern fur seals and Guadalupe fur seals in the vicinity of Vandenberg and the Northern Channel Islands (NCI) for a period of 1 year.

DATES: Comments and information must be received no later than April 15, 1996.

ADDRESSES: Comments on the application should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application, an Environmental Assessment (EA) and a list of the references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Irma Lagomarsino, Southwest Regional Office at 310–980–4016.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 30, 1994, the President signed Public Law 103–238, The Marine Mammal Protection Act Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to one year. The MMPA defines ''harassment'' as:

'' * * *any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.''

New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On January 24, 1996, NMFS received an application from the Air Force requesting an authorization for the harassment of small numbers of harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*) and possibly Guadalupe fur seals (*Arctocephalus townsendi*) in the vicinity of Vandenberg and on the NCI. These harassment takes would result from launchings of Titan II and Titan IV rockets. This authorization, if issued, would continue an authorization, issued, for a 5-year period under regulations, on August 22, 1991 (56 FR 41628) for Titan IV launches, that is scheduled to expire on September 23,

1996. NMFS anticipates that this 1-year authorization, along with others issued previously for Lockheed launch vehicles (LLV)(60 FR 38308, July 26, 1995) and McDonnell Douglas Delta II launch vehicles (60 FR 52653, October 10, 1995), will be replaced by a new set of regulations, under section 101(a)(5)(A) of the MMPA, governing incidental takes of marine mammals by launches of all rocket types from Vandenberg. An application for a small take authorization under section 101(a)(5)(A) of the MMPA is under development by the Air Force.

The Titan II space launch vehicle is a two-staged, modified Intercontinental Ballistic Missile redesigned to carry small payloads up to 5,600 lbs (kg). The Titan IV space launch vehicle is a larger vehicle, carrying payloads similar to those carried by the Space Shuttle (Air Force 1996). While the exact number of Titan II and Titan IV launches that will take place during the period of this authorization are unknown, a best estimate is for two launches for Titan II and two launches for Titan IV (Air Force 1996). The total number of Titan IV launches from 1990 through July 1995 was eight.

The flight paths of Titan launches from Vandenberg proceed in various directions, depending on the mission. Some missions require a slight retrograde launch azimuth toward the southwest. Others may proceed southeast, overflying San Miguel Island (SMI) or just west of Santa Rosa Island (SRI). No vehicles are allowed direct overflight of SRI, Santa Cruz, or Anacapa Island (Air Force 1996). Specific launch dates and trajectories are not available at this time.

The duration of noise capable of affecting marine mammals generated by each Titan launch is brief. Within 1 minute following liftoff, the noise event at Rocky Pt., Vandenberg, will be concluded (Stewart et al. 1993a, 1993b), and within 2 minutes, a Titan IV will be 28.6 miles (46 km) from SLC–4, over the open ocean and out of hearing range of marine mammals on NCI (Air Force 1996).

As a result of the launch noise, and the resultant sonic boom, there is a potential to cause a startle response and flight to water for those harbor seals and other pinnipeds that may haul out on the coastline of Vandenberg and on NCI. Launch noise is expected to occur over the coastal habitats in the vicinity of SLC–4 during every launch, while sonic booms could be heard on NCI, specifically SMI and SRI, only during certain launches.

Description of Habitat and Marine Mammals Affected by Titan II and IVs

The Southern California Bight (SCB) including the Channel Islands, supports a diverse assemblage of 29 species of cetaceans (whales, dolphins and porpoises) and 5 species of pinnipeds (seals and sea lions). California sea lions, northern elephant seals, harbor seals, and northern fur seals breed there, with the largest rookeries on SMI and San Nicolas Island (SNI) (Stewart et al. in press). Until 1977, a small rookery of Steller sea lions (*Eumetopias jubatus*) existed on SMI. However, there has been no breeding there since 1981 and no sightings since 1984. More detailed descriptions of the SCB and its associated marine mammals can be found elsewhere (56 FR 1606, January 16, 1991) and NMFS (1990, 1991).

Harbor Seals

The Pacific harbor seal, which ranges from Baja California to the eastern Aleutian Islands, is the marine mammal most likely to be incidentally harassed by launch noises from Titan II and IV launches from Vandenberg. Harbor seals are considered abundant throughout most of their range and have increased substantially in the last 20 years. Hanan and Beeson (1994) reported 21,462 seals counted on the mainland coast and islands of California during May and June, 1994. Using that count and Huber et al.'s (1993) correction factor (1.61 times the count) for animals not hauled out, gives a best population estimate of 34,554 harbor seals in California (Barlow et al. 1995).

On the coastlines of Vandenberg, harbor seals are noted near Purisima Point (8 mi (12.9 km) north of SLC–4), Point Arguello, at the mouth of Oil Well Canyon, in the area surrounding Rocky Pt. (5 mi (8 km) south of SLC–4) and near the Boathouse Breakwater (Air Force 1995a, 1995b, 1995c). The largest aggregations occur during the spring and early summer. Hanan et al. (1992) reported that 35 harbor seals were at Purisima Pt. while another 79 were found just south of Purisima Pt. Photographic records indicated the presence of approximately 70 harbor seals at this site in February, 1994 (Air Force 1995a), while Hanan et al. 1992) reported 300 harbor seals present at Rocky Pt. In 1991, over 1,300 harbor seals were censused at the sites along North and South Vandenberg (Hanan et al. 1992).

On SMI during the molting season, the population is estimated to be about 1,000 - 1,200 harbor seals (Hanan et al. 1993). Numbers are lowest in December, increase gradually from February to June, then sharply decrease again to a minimum in December. Pups are born from February through May. Pups nurse for about 4 weeks; nursing extends to at least the end of May. Breeding activities occur from mid-April to mid-June and molting occurs from May through August.

Harbor seals (and other pinnipeds) haulout onto dry land for various biological reasons, including sleep (Krieber and Barrette 1984, Terhune 1985), predator avoidance and thermoregulation (Barnett 1992). As harbor seals spend most of the evening and nighttime hours in the ocean (Bowles and Stewart 1980), hauled-out seals spend much of their daytime hours in apparent sleep (Krieber and Barrette 1984, Terhune 1985). In addition to sleep, seals need to leave the ocean to avoid aquatic predators and excessive heat loss to the sea water (Barnett 1992).

However, the advantages of hauling out are counterbalanced by dangers of the terrestrial environment including predators. In general, because of these opposing biological forces, haulout groups are temporary, unstable aggregations (Sullivan 1982). The size of the haulout group is thought to be an anti-predator strategy (da Silva and Terhune 1988). By increasing their numbers at a haulout site, harbor seals optimize the opportunities for sleep by minimizing the requirement for individual vigilance against predators (Krieber and Barrette 1984). This relationship between seals and their predators is thought to have represented a strong selection pressure for startle behavior patterns (da Silva and Terhune 1988). As a result, harbor seals, which have been subjected to extensive predation and hunting, rush into the water at the slightest alarm (Arseniev 1986) unless they have become habituated to the disturbance (Lagomarsino, pers. commn.).

Startle response in harbor seals can vary from a temporary state of agitation by a few individuals to the complete abandonment of the beach area by the entire colony. Normally, when harbor seals are frightened by noise, or the approach of a boat, plane, human, or potential predator, they will move rapidly to the relative safety of the water. Depending upon the severity of the disturbance, seals may return to the original haulout site immediately, stay in the water for some length of time before hauling out, or haul out in a different area . When disturbances occur late in the day, harbor seals may not haul out again until the next day.

Disturbances have the potential to cause a more serious effect when seals and sea lion herds are pupping or

nursing, when aggregations are dense, and during the molting season (ref). However, evidence to date from Vadneberg and SMI, has not indicated that launch noises and sonic booms have resulted in increased mortality (Stewart and Francine 1991, 1992; Stewart et al. 1993a, 1993b). Bowles and Stewart (1980) for example, found that harbor seals' tendency to flee, and the length of time before returning to the beach, decreased during the pupping season. They also found that maternal-pup separations in crowded colonies are considered frequent, natural occurrences that can result from several causes, including normal female-female or male-female interactions. Both factors apparently give some protection to young seals from the startle response of the herd.

California Sea Lions

Two subspecies of the California sea lion inhabit the Pacific Ocean from the Galapagos Islands to Baja California to British Columbia. The subspecies referred to as the California sea lion breeds along the Channel Islands, oceanic islands off the Pacific coast of Mexico and in the Gulf of California. A steady increase in the U.S. California sea lion population has occurred in the last two decades. From 1970 to 1989, the total population increased from an estimated 10,000 to 87,000 in the SCB. Based upon 1994 counts, the U.S. population is now estimated to be over 160,000 with a net productivity rate of 11.7 percent (Barlow et al. 1995).

The two major California sea lion rookeries in the Channel Islands are on SMI and SNI. Stewart et al. (in press) estimated about 95 percent of the 16,000–17,000 pups born in the Channel Islands in 1986 were from these two rookeries. Adult males arrive at the rookeries from March - May and breeding extends from May - July, with most births from mid-June to mid-July. Females nurse pups on an 8-day on/2-day off schedule for 4–8 months, with the ''off days'' spent foraging at sea (Heath et al. 1991). After the breeding season, adult males from the SCB migrate north from August through September and winter as far north as British Columbia. However, they are replaced by adult males from Baja California that migrate to the Channel Islands to molt in December and January (Reeves et al. 1992). Seasonal movements of females are unknown; they may remain near the rookeries year round. California sea lions of all age-classes can be expected to forage in the offshore SCB during all seasons, with periods of peak at-sea abundance in late summer and autumn.

Northern Elephant Seal

The northern elephant seal, which is found on offshore islands from central Baja California north to Point Reyes, CA, north of San Francisco, has made a remarkable recovery in its population numbers. In 1892, it was estimated that only 100 elephant seals remained, and they inhabited Guadalupe Island, Mexico. The total population in 1991 was estimated at about 127,000 animals (Stewart et al. 1994). NMFS estimates the California stock size in 1991 at 73,500 and growing while the population in Mexico appears to be stable or decreasing (Barlow et al. 1995).

Population estimates in the SCB increased from 28,000 in 1975–78 to 50,800 in 1989/90 with annual growth estimated at 14 percent for 1964–1981 (Cooper and Stewart 1983) and 10 percent for 1981–85 (Stewart et al. in press). Unpublished NMFS data indicate that the number of pups born in the Channel Islands continues to increase (Barlow et al. 1995).

Northern elephant seals forage at sea for 8–10 months each year during which time they make two migrations between breeding and molting sites in the Channel Islands and pelagic foraging grounds in the eastern North Pacific (Stewart and DeLong 1993). Major rookeries are established annually on SMI and SNI. Adult males and females are ashore simultaneously only during breeding; females typically for 34 days continuously, and adult males for 30–90 days (Stewart and DeLong 1993). Adult males maintain breeding territories on rookery beaches from early December through early March. Females arrive at rookeries from late December through February, with most births in January (Sydeman et al. 1991). Pups are weaned and abandoned when about 1 month old and go to sea 1–3 months later. Females and juveniles return to the Channel Islands to molt in April and May and adult males return in July and August.

Elephant seals travel north between breeding and molting seasons and disperse widely in the eastern North Pacific to forage on squid and other mesopelagic prey. Adult males migrate to the Gulf of Alaska and Aleutian Islands, while females and juveniles migrate as far as Oregon and Washington (Reeves et al. 1992). Both sexes dive continuously while at sea; females are submerged about 91 percent and males about 88 percent of the time while at sea (Stewart and DeLong 1993). During foraging dives, seals descend rapidly to a specific depth, remain there for several minutes and then ascend rapidly to the surface (Stewart and DeLong 1993). On average, female dives were to about 1640 ft (500 m) depth and lasted 24 minutes, with 2–minute inter-dive surface intervals; male dives were to about 1,198 ft (365 m) depth and lasted 23 minutes, with 3–minute inter-dive surface intervals. Overall, dives for both sexes were between 492–2625 ft (150–800 m) depth.

All age-classes of northern elephant seals can be expected to forage in the offshore SCB, with periods of peak abundance just after breeding (late February-early March) and molting (April-May for females; July-August for males) periods.

Northern Fur Seal

Because of recent declines, NMFS declared the Pribilof stock of northern fur seals as a depleted species under the MMPA. In 1983, the estimated size of the northern fur seal population was about 1.2 million. No significant changes have been documented since that time, although recent counts of adult males on the Pribilof Island and counts of pups on Robben Island have declined. There are an estimated 871,000 animals in Alaskan waters and 332,000 in Russian waters. The 1994 population estimate for the SMI stock of fur seals, based upon a pup count of 2,634 (NMFS unpubl. data) is 10,536 animals (Barlow et al. 1995).

The peak number of hauled-out northern fur seals on SMI occurs in mid-July with a post-breeding season decline continuing through December. Some females and yearlings may be present at any time, with the higher number of pups present in early July. These animals are generally at sea for 7 consecutive months from November through late May.

Guadalupe Fur Seal

After 1923, the Guadalupe fur seal was regarded as extinct. In 1949, one adult male was seen on SNI and a breeding colony was discovered on Guadalupe Island, Mexico in 1954. The population in 1987 was estimated to be about 6,000 animals. In 1988, 3,259 seals were counted on Guadalupe Island and occasional sightings have been made of animals in the offshore waters of Baja California and southern California. Since 1968, small numbers of nonbreeding animals, usually subadult males, have been observed on SMI.

Potential Effects of Titan II and IV Launches on Marine Mammals

The effect on pinnipeds, would be from disturbance by airborne sound, which is anticipated to result in a negligible short-term impact to those small numbers of harbor seals and other pinnipeds that may be hauled out along

the coast near SLC–4 and on the NCI at the time of Titan II and IV launches. Other than these brief, infrequent, periods of elevated noise, no temporary or permanent habitat modifications are anticipated.

There is no evidence that any marine mammals, other than those on shore at Vandenberg or NCI at the time of launch, would be subject to harassment by launch noises or sonic booms (when vehicle trajectory takes it over the NCI), although the potential does exist that other marine mammals, either on the surface or in the water column, may hear either the launch noise or the sonic boom. However, simply hearing noise from an activity does not necessarily mean that the animals have been harassed. Also, NMFS does not consider simple, singular, reflex actions (e.g., alert, startle, or dive response to a stimulus) from animals on the water surface to be sufficient on its own to warrant an incidental harassment authorization.

South Vandenberg

At South Vandenberg, launch noises are expected to impact mostly harbor seals as other pinniped species (California sea lions and northern elephant seals) are known to haulout at these sites only infrequently and in significantly smaller numbers. The launch noise associated with the Titan II (similar in size to the LLV) is predicted (based upon similarity in size) to be about 93 dBA (118 dB) at the principal haulout at Rocky Point, and almost unnoticeable offshore.

As part of the 1991 small take authorization for Titan IV launches at SLC–4, the Air Force monitored the effects of launch noises on harbor seals hauled out at Rocky Pt. (4.8 mi (7.7 km) south of SLC–4). For four monitored launches of Titan IVs, the sound exposure level ranged from 98.7–101.8 dBA (145 dB) (Stewart and Francine 1991, 1992; Stewart et al. 1993a, 1993b). During the 1992 and 1993 Titan IV launches, all or almost all, harbor seals that were ashore at the time fled into the water (1992—23 of 28; 1993—41 of 41) in response to the noise. After a launch in 1993, about 75 percent of those seals returned ashore later that day, most within 90 minutes of the disturbance (Stewart et al. 1993b). There were no apparent mortalities following any of the four monitored launches, and the haulout patterns were reported similar to those prior to the launches (Stewart and Francine 1991, 1992; Stewart et al. 1993a, 1993b). Because of the greater distance between SLC–4 and other haulout sites, fewer harbor seals are anticipated to be affected by launch noises at these locations. Launch noise from a Titan II is expected to be significantly less than from the larger Titan IV, although harbor seals may leave the beach at Rocky Pt. due to the noise.

Time-lapse photographic monitoring (Jehl and Cooper 1982) shows that, in response to a specific stimulus, large numbers of pinnipeds may move suddenly from the shoreline to the water. These events occur (on SMI at least) at a frequency of about 24 to 36 times per year for sea lions and seals other than harbor seals, and about 48 to 60 times annually for harbor seals. Visual stimuli, such as humans and low-flying aircraft, are much more likely to elicit this response than strictly auditory stimuli, such as boat noise or sonic booms. Observations indicated that it is rare for mass movement to take place in a panic, and no resulting pup or adult mortality has been observed under these circumstances.

Stewart (1981, 1982) also exposed breeding California sea lions and northern elephant seals on SNI to loud implosive noises created by a carbide pest control cannon. Sound pressure levels varied from 125.7 to 146.9 dB. While behavioral responses of each species varied by sex, age, and season, Stewart found that habitat use, population growth, and pup survival of both species appeared unaffected by periodic exposure to the noise.

Because of high ambient noise along the coastline, attenuation of launch noise, and because almost all sounds from the launch should be reflected off, and not penetrate, the water surface, launch noises are not expected to impact any marine mammals in nearshore waters of Vandenberg, although pinnipeds at the water surface in the waters around SLC–4 may alert to the noise.

With launch noises expected to rapidly attenuate and reflect off the water surface, with minimal penetration, and with ambient noise level expected to range between 56 and 96 dBA (Air Force 1995a), there is at present no evidence that any marine mammals (other than pinnipeds onshore at the time of launch), would be subject to harassment by launch noises, although the potential does exist that other marine mammal species may hear the launch noises.

Northern Channel Islands (NCI)

Sonic booms resulting from launches of the Titan II and IV vary with the vehicle trajectory and the specific ground location. A sonic boom is not expected to intersect with the ocean surface until the vehicle changes its launch trajectory. This location will always be well offshore but may intersect with the NCI. Sonic booms may become focused within a narrow band under the flight path, resulting in sound levels of exceptional amplitude within a very narrow footprint. Theoretical calculations suggest that marine mammal habitat within the narrow footprint of a focused sonic boom could experience sound levels as high as 147 dB (USAF 1990, 1996).

The shores of SMI are subjected to noises from surf, wind, animal vocalizations, boats and aircraft, including several sonic booms per month. Ambient sound pressure levels vary between 56 and 96 dBA. In air, marine mammals are generally believed to be much less sensitive than humans to low-frequency sonic booms (Air Force 1990, NMFS 1990). Humans have been exposed to impulse noise similar in magnitude to the sonic booms expected from Titan IVs with no permanent hearing effects and only temporarily reduced hearing sensitivity (referred to as TTS-temporary threshold shift). Outside an approximate 4.4 mile by 1,000–ft (7.1 km by 305 m) zone directly under the flight path, almost all sounds will be reflected at the water's surface. Therefore, only those individual marine mammals within this zone will experience energy from a sonic boom (Air Force 1988 and 1990, NMFS 1990). Chappell (1980) calculates that a sonic boom would need to have a peak overpressure in the range of 138 to 169 dB to cause TTS in marine mammals, with TTS lasting at most a few minutes. Moreover, because of physiological compensatory mechanisms, NMFS believes that even animals in the water exposed to the highest energy from a sonic boom may have only a small chance of experiencing minor TTS. Although Titan IV-generated sonic booms are not likely to cause permanent hearing damage to marine mammals in or out of the water, they may cause minor reduction in hearing sensitivity in those few species with hearing capabilities in the low frequencies found in sonic booms. This effect is expected to be temporary and will not affect the survival of individuals or adversely affect the species' populations in California waters.

Depending upon the intensity and location of a sonic boom, pinnipeds on SMI could exhibit a simple alert (head-up) response, or they could startle and stampede into the water. The two primary concerns for pinnipeds involve the possibility of a stampede during which pups may be trampled or separated from their mothers and the

potential effects of loud noises on the pinniped's hearing. Also possible physiological stress to the animals, resulting in unsuccessful breeding and other anomalies in behavior may be of concern.

Monitoring the effects of noise generated from Titan IV launches on SMI pinnipeds in 1991, Stewart et al. (1992) demonstrated that noise levels from a sonic boom of 133 dB (111.7 dBA) caused an alert (head up) response by 25 California sea lions, but no response from other pinniped species present (including harbor seals and elephant seals). There was no seaward movement as a result of this nighttime launch. In 1993, an explosion of a Titan IV created a sonic boom-like pressure wave that resulted in an alert response, but no movement toward the sea. Additional popping and rumbling noises that followed the initial overpressure caused approximately 45 percent of the California sea lions (approximately 23,400, including 14 to 15 thousand 1-month old pups, were hauled out on SMI during the launch) and 2 percent of the northern fur seals to enter the surf zone. Although approximately 15 percent of the sea lion pups were temporarily abandoned when their mothers fled into the surf, no injuries or mortalities were observed. Most animals were returning to shore within 2 hours of the disturbance (Stewart et al. 1993b) and haul-out patterns after launchings appeared normal.

Outside the zone of focused energy, cetaceans and pinnipeds in the water should be unaffected by the sonic booms, although, depending upon location and ambient noise levels, some pinnipeds may be able to hear the sonic boom. Although rough seas may provide some surfaces at the proper angle for sound to penetrate the water surface (Richardson et al. 1991), sound entering a water surface at an angle greater than 13 degrees from the vertical has been shown to be largely deflected at the surface with very little sound entering the water (Chappell 1980, Richardson et al. 1991, 1995).

With only a remote likelihood that a cetacean will be almost directly under the line of flight of a Titan II and IV at the instant the vehicle changes its launch trajectory, NMFS believes that sonic booms will not result in the harassment of cetacean populations in offshore waters of the SCB.

Most long-term physiological effects, such as those on reproduction, metabolism and general health, or on the animals' resistance to disease, are caused by much greater cumulative sound exposures (intense continuous noise) than those expected from space vehicle sonic booms (infrequent, loud, and short-duration noise), which have less potential for affecting physiology (Air Force 1990, NMFS 1990).

Researchers (under contract to the Air Force) who conducted studies on effects of the space shuttle stated that the space shuttle sonic booms would not produce auditory or nonauditory effects in NCI pinnipeds of sufficient magnitude to measurably influence population levels. Some TTS would be likely following the exceptionally loud focused booms created by launches flying directly over the NCI, but this TTS should last only a short time (minutes to hours). Also, although the startle effect of the space shuttle sonic boom might cause some panic and concomitant physiological stress, the frequency of the booms would be low compared to the frequency of naturally induced startle events.

Chappell (1980) states that there will be no adverse effect on pinniped survival, since no significant increase in stress-related pathology is anticipated, nor is any disruption of the reproductive cycle considered probable.

Prohibitions

NMFS proposes that the following prohibitions be imposed as part of the authorization: (1) The incidental or intentional taking of any marine mammal not authorized by the incidental harassment authorization; and (2) The incidental take of a seal or sea lion other than by unintentional, nonlethal harassment.

Mitigation

Unless constrained by other factors including, but not limited to, human safety, national security or launch trajectories, efforts to ensure minimum negligible impacts of Titan II and IV launches on harbor seals and other pinnipeds, NMFS proposes to include in the authorization, the requirement to avoid whenever possible launches during the harbor seal pupping season of February through May.

Additional mitigation measures would be developed, if necessary, cooperatively between NMFS and the Air Force based on the degree of impact documented during monitoring activities following specific Titan launches.

Monitoring

In order to verify the assumptions made in this finding, NMFS proposes to require the Air Force to visually monitor the impact of Titan II and IV launches on the harbor seal haulouts in the vicinity of SLC–4 (Rocky Point) at Vandenberg (or in the absence of pinnipeds at that location, at a nearby haulout) during all launches. This monitoring will be conducted by one or more qualified biologists 3 days prior to a launch and for a period of 3 days post-launch. This monitoring will consist of a census of the population to determine if there is a reduction in numbers of animals and will occur as soon as possible after each launch (Rocky Point is not accessible during launches). As there is insufficient documentation of the effects of launches during the pupping season, remote (video) monitoring will be conducted during daylight launches in the pupping season(s) to determine the actual response of pinnipeds to the launch. Remote video data will be collected during the first two launches taking place in the pupping season(s). These data will be evaluated to determine the potential impacts, if any, to the pinniped population, and to determine if pup mortality or abandonment occurred as a result of launches. In addition, Vandenberg will perform post-launch monitoring which, at a minimum, would include 4 censuses over a 2-week period following any launches during the pupping season.

In addition, monitoring on NCI during the 1-year period of authorization will be required whenever a Titan IV day-time launch predicts a sonic boom over NCI. This monitoring will include the use of a prediction model to determine if and where a sonic boom will be produced in the immediate area of the NCI by the individual launch. Prior to each launch, prediction model results and proposed monitoring activities will be forwarded to the NMFS Southwest Regional Office for review and approval. Monitoring will occur at the location of the predicted sonic boom, or, if no marine mammal haulouts or rookeries exist within the predicted area, at the nearest haulout or rookery and to monitor the impacts to marine mammal populations. Launches predicted to produce sonic booms will be monitored until two sonic booms occur, have been monitored, and data collected. Data collection will document impacts during and after, each of these two launches. If the prediction model indicates that there will be no sonic boom in the immediate area of the NCI, no monitoring will be conducted on NCI.

Reporting

A report will be submitted to the NMFS Southwest Regional Office within 90 days of any launch of a Titan II or IV. This report will include the following information: (1) Date and time

of launch; (2) dates and locations of any research activities related to monitoring the effects of the sonic booms on pinniped populations; (3) results of any monitoring activities at Vandenberg or NCI concerning behavioral responses; and (4) results of any population studies made on pinnipeds on the NCI before and after the launch.

Upon completion of monitoring and collecting of data for two sonic boom events, Vandenberg will evaluate the impacts. Upon consultation and coordination with NMFS, monitoring activities will be reevaluated to determine monitoring needs.

National Environmental Policy Act (NEPA)

In 1988, the Air Force released a final environmental impact statement for the Titan IV launch vehicle modifications and launch operations program (Air Force 1988). On December 21, 1990, NMFS published an EA (NMFS 1990) on an authorization to the Air Force to incidentally take marine mammals during launches of the Titan IV space vehicle from Vandenberg. The finding of that EA was that the issuance of the authorization would not significantly affect the quality of the human environment and therefore an environmental impact statement on the issuance of regulations authorizing an incidental take was not necessary.

Endangered Species Act (ESA)

The Department of the Air Force consulted with NMFS, as required by section 7 of the ESA, on whether launches of Titan II and IV at SLC–4 would jeopardize the continued existence of species listed as threatened or endangered. NMFS issued a section 7 biological opinion on this activity to the Air Force on October 31, 1988, concluding that launchings of the Titan IV was not likely to jeopardize the continued existence of the Guadalupe fur seal. The Air Force reinitiated consultation with NMFS after the Steller sea lion was added to the list of threatened and endangered species (55 FR 49204, November 26, 1990). However, since no northern sea lions have been sighted on the Channel Islands since 1984, it was determined that these launchings were not likely to affect northern sea lions. In addition, on September 18, 1991, NMFS concluded that the issuance of a small take authorization to the Air Force to incidentally take marine mammals during Titan IV launches was not likely to jeopardize the continued existence of northern sea lions or Guadalupe fur seals.

Conclusions

The short-term impact of the launching of Titan II and IV rockets is expected to be, at worst, a temporary reduction in utilization of the haulout as seals or sea lions leave the beach for the safety of the water. Launchings are not expected to result in any reduction in the number of pinnipeds, and they are expected to continue to reoccupy the same area shortly after each launch. In addition, there will not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on pinnipeds at Vandenberg and the NCI are unlikely.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization for 1 year (September 23, 1996 through September 22, 1997) for launches of the Titan II and IV rockets and related safety monitoring at SLC–4, provided the above mentioned monitoring and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed launches of the Titan II and IV at SLC–4 would result in the harassment taking of only small numbers of harbor seals, California sea lions, northern elephant seal, northern fur seals and possibly Guadalupe fur seals; will have a negligible impact on pinniped stocks in the SCB; and will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: March 11, 1996.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–6177 Filed 3–14–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 15, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for

production by the nonprofit agencies listed:

Commodities
Towel Machinery Wiping
7920–00–532–8543
7920–00–519–1912
NPA: East Texas Lighthouse for the Blind Tyler, Texas
Services
Janitorial/Custodial
Portsmouth Naval Shipyard
Buildings H–29 and 86
Kittery, Maine
NPA: Easter Seal Society of New Hampshire Manchester, New Hampshire
Janitorial/Custodial
Naval Undersea Warfare Center
Buildings 1319 and 1320
Newport, Rhode Island
NPA: Newport County Chapter of Retarded Citizens, Inc. Newport, Rhode Island
Parts Sorting
Oklahoma City Air Logistics Center
Tinker Air Force Base, Oklahoma
NPA: The Oklahoma League for the Blind Oklahoma City, Oklahoma
Switchboard Operation
Department of Veterans Affairs Medical Center
Buffalo, New York
NPA: Blind Association of Western New York Buffalo, New York

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for deletion from the Procurement List.

The following commodity has been proposed for deletion from the Procurement List:

Sea Marker, Fluorescein Dye
6850–00–270–9986

Beverly L. Milkman,
Executive Director.

[FR Doc. 96–6265 Filed 3–14–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 15, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On January 19 and 26, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 1362 and 2494) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, Department of Energy, Elverta Maintenance Facility Elverta, California.
Laundry Serviciability VA Medical Center, Danville, Illinois.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 96–6266 Filed 3–14–96; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on CFTC-State Cooperation; Tenth Renewal

The Commodity Futures Trading Commission has determined to renew again for a period of two years its advisory committee designated as the Commission's ''Advisory Committee on CFTC-State Cooperation.'' As required by section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, 14(a)(2)(A), and 41 CFR 101–6.1007 and 101.6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, as amended.

The objectives and scope of activities of the Advisory Committee on CFTC-State Cooperation are to conduct public meetings and submit reports and recommendations on matters of joint concern to the states and the Commission arising under the Commodity Exchange Act regarding regulation of commodity transactions and related activities.

Commissioner Barbara Pedersen Holum serves as Chairman and Designated Federal Official of the Advisory Committee on CFTC-State Cooperation. The Advisory Committee's other members include state and federal officials who have had experience in the commodities, securities and law enforcement fields, and representatives of futures industry organizations, city government, and a private brokerage firm.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

Issued in Washington, DC, this 11th day of March 1996 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–6194 Filed 3–14–96; 8:45 am]

BILLING CODE 6351–01–M

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Sequestration Preview Report for Fiscal Year 1997 to Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Sequestration Preview Report for Fiscal Year 1997 to the House of Representatives, the Senate, and the Office of Management and Budget.

Stanley L. Greigg,

Director, Office of Intergovernmental Relations, Congressional Budget Office.

[FR Doc. 96–6407 Filed 3–14–96; 8:45 am]

BILLING CODE 9607–02–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Procurement of Goods and Services

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval of a collection of information associated with the procurement of goods and services. Forms used by the Commission for procurement of goods and services request persons who quote, propose, or bid on contracts to provide information needed to evaluate quotes, proposals, and bids in accordance with applicable laws and regulations.

The Commission will consider all comments received in response to this notice before requesting reinstatement of approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than May 14, 1996.

ADDRESSES: Written comments should be captioned ''Procurement of Goods and Services; Paperwork Reduction Act'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the proposed reinstatement of approval of the collection of information, or to obtain a copy of the forms used by the Commission for procurement of goods and services, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2243.

SUPPLEMENTARY INFORMATION: The Commission's procurement of goods and services is governed by the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253 *et seq.*). That law requires the Commission to procure goods and services under conditions most advantageous to the government, considering cost and other factors.

A. Information Required by Procurement Forms

The Commission requires persons and firms to submit quotations, proposals, and bids for contracts to provide goods and services on standardized forms. These forms request information from offerors about costs or prices of goods and services to be supplied; specifications of goods and descriptions of services to be delivered; competence of the offeror to provide the goods or services; and other information about the offeror such as the size of the firm and whether it is minority owned. The Commission uses the information provided by offerors to determine the reasonableness of prices and costs and the responsiveness of potential contractors to undertake the work involved so that all bids may be awarded in accordance with Federal procurement laws.

The Office of Management and Budget (OMB) approved the collection of information requirements in the procurement forms used by the Commission under control number 3041–0059. OMB's most recent extension of approval will expire on May 31, 1996. The CPSC now proposes to request extension of approval without change for the information collection requirements in the forms used for procurement of goods and services.

B. Information Collection Burden

The Commission staff estimates that each year about 2,500 persons and firms submit quotations, proposals, and bids on one or more procurement contracts with the agency. The Commission staff estimates further that, on average, the burden imposed by the regulations on each of these persons or firms in a given year is approximately 3 hours. Thus, the total annual burden imposed by the request for information in the Commission's procurement forms on all bidders is about 7,500 hours per year.

The Commission staff estimates that the hourly wage for the time required to obtain and provide the information required by procurement forms is about $35 per hour, and that the annual total cost to all offerors is approximately $262,500.

During a typical year, the Commission will expend approximately 161 months of professional staff time reviewing the information required to be submitted on procurement forms. The annual cost to the Federal Government of the collection of information in the procurement forms is estimated to be $230,000.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed extension of approval of the collection of information in forms used for the procurement of goods and services. The Commission specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on persons and firms who quote, propose, and bid for contracts with the Commission. The Commission also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the Commission's functions;
- Whether the information will have practical utility for the Commission;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: March 11, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–6196 Filed 3–14–96; 8:45 am]

BILLING CODE 6355–01–P

[CPSC Docket No. 96–C0002]

The Singer Sewing Company, a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with The Singer Sewing Company, a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by April 1, 1996.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 96–C0002, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: March 7, 1996.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. The Singer Sewing Company (hereinafter, ''Singer'' or ''Respondent''), a corporation, enters into this Settlement Agreement and Order (hereinafter, ''Agreement'') with the staff of the Consumer Product Safety Commission pursuant to the procedures set forth in 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (''CPSA'').

I. The Parties

2. The ''staff'' is the staff of the Consumer Product Safety Commission (hereinafter, ''Commission'' or ''CPSC''), an independent regulatory commission of the United States established pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

3. Singer is a corporation organized and existing under the laws of the State of Delaware, with its principal corporate offices located at 135 Raritan Center Parkway, Edison, NJ. 08837–3642.

II. Allegations of the Staff

4. Between 1991 and 1993, Singer distributed approximately 760,000 units of the Juice Giant Juicer, Model No. 774 (hereinafter, ''Juice Giant''). Singer is, therefore, a ''distributor'' and a ''private labeler'' as those terms are defined in sections 3(a)(5) and (7)(A) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2052(a)(5) and (7)(A).

5. The Juice Giant is a portable household appliance that pulps fruits and vegetables and turns them into juice. The Juice Giant is a ''consumer product'' which was ''distributed in commerce'' as those terms are defined in sections 3(a) (1) and (11) of the CPSA, 15 U.S.C. 2052(a) (1) and (11).

6. The Juice Giant contains a defect which creates a ''substantial product hazard'' as that term is defined in section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2) in that the strainer basket of the Juice Giant can break apart dislodging or breaking the protective upper housing allowing parts of the basket to fly out of the unit.

7. On or about September 10, 1992, Singer received its first report of a strainer basket failure involving the Juice Giant.

8. In November, 1992, Singer received its second report of a strainer basket failure involving the Juice Giant.

9. During the first quarter of 1993, Singer received six (6) more reports of failures involving the Juice Giant. Two (2) of these reports involved consumers sustaining injuries; the other four (4) involved consumers getting hit with debris. Singer examined some of the failed units and identified two types of failures: (a) A single failure in which the disc separated from the shredder basket; and (b) seven failures in which the wire mesh separated from the top/bottom rims of the strainer basket.

10. On or about September 8, 1993, Singer had received a total of 16 reports of failure involving the Juice Giant. Ten (10) of these reports involved consumers sustaining facial, eye, and arm injuries as a result of the Juice Giant exploding and scattering debris.

11. On or about September 15, 1993, Singer contacted Mitco-Shannon, Inc., the U.S. importer (hereinafter, ''Mitco'') and Hop Shing, the foreign manufacturer, to discuss the following issues: (a) Notifying the Commission of the defect associated with the Juice Giant pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b); (b) redesigning the Juice Giant's basket; and (c) determining the cause of the Juice Giant's failure.

12. In October, 1993, Singer officials met with Mitco and Hop Shing representatives to discuss the failures of the Juice Giant and the manufacture of a replacement basket for the Juice Giant in the event CPSC ordered a recall of the Juice Giant.

13. On or about January 4, 1994, Singer notified the Commission pursuant to section 15(b) of the CPSA 15 U.S.C. 2064(b) that the Juice Giant contained a defect which could create a substantial product hazard.

14. Singer had obtained sufficient information on or about March 31, 1993 to conclude that the Juice Giant contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury or death. Its failure to report such information in a timely manner to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b) constituted a knowing violation under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), and subjects Singer to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069.

III. Response of Singer

15. Singer denies the allegations of the staff set forth in paragraphs 4 through 14 above and specifically denies the allegations that the Juice Giant contains a defect which creates or could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a) or creates an unreasonable risk of serious injury or death.

16. Singer denies that it knowingly violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) pursuant to section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

IV. Agreement of the Parties

17. The Commission has jurisdiction over this matter under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*

18. Upon final acceptance by the Commission of this Settlement Agreement and Order, the Commission shall issue the attached Order incorporated herein by this reference.

19. The Commission does not make any determination that the Juice Giant contains a defect which creates or could create a substantial product hazard or creates an unreasonable risk of serious injury or death; that Singer knowingly violated the reporting provisions of section 15(b) of the CPSA, 15 U.S.C. 2064(b) pursuant to section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). This

Agreement is entered for the purposes of settlement only.

20. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Singer knowingly, voluntarily, and completely waives any rights it may have in this matter (a) to an administrative or judicial hearing, (b) to judicial review or other challenge or contest of the validity of the Commission's actions, (c) to a determination by the Commission as to whether the Juice Giant contains a defect which creates or could create a substantial product hazard or creates an unreasonable risk of serious injury or death and as to whether Singer knowingly violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) pursuant to section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a) (4), (d) to a statement of findings of facts and conclusions of law, and (e) to any claims under the Equal Access to Justice Act.

21. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had been issued; and the Commission may publicize the terms of the Settlement Agreement and Order.

22. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the Federal Register in accordance with the procedures set forth in 16 CFR 1118.20 (e)–(h). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is first published in the Federal Register.

23. The parties further agree that the Commission shall issue the attached Order; and that a violation of the Order shall subject Singer to appropriate legal action.

24. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or to contradict its terms.

25. The provisions of the Settlement Agreement and Order shall apply to Singer and each of its successors and assigns.

Respondent the Singer Sewing Company.

Dated: January 26, 1996.

Mark McGuiness,

President, The Singer Sewing Company.

Commission Staff.

David Schmeltzer,

Assistant Executive Director, Office of Compliance.

Eric L. Stone,

Acting Director, Division of Administrative Litigation, Office of Compliance.

Dated: January 29, 1996.

Dennis C. Kacoyanis,

Trial Attorney, Division of Administrative Litigation, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Respondent, The Singer Sewing Company, a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and The Singer Sewing Company; and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted; and it is

Further ordered, that upon final acceptance of the Settlement Agreement and Order, The Singer Sewing Company shall pay the Commission a civil penalty in the amount of one hundred twenty thousand and 00/100 dollars ($120,000.00), within forth (40) days after service of this Final Order upon the Respondent, The Singer Sewing Company.

Provisionally accepted and Provisional Order issued on the 7th day of March, 1996.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–6195 Filed 3–14–96; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY

Record of Decision: Management of Spent Nuclear Fuel From the K Basins at the Hanford Site, Richland, WA

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of Record of Decision (ROD).

SUMMARY: DOE has prepared and issued a final environmental impact statement (FEIS) on the ''Management of Spent Nuclear Fuel from the K Basins at the Hanford Site, Richland, Washington'' (DOE/EIS–0245F, January 1996). A notice of availability of the FEIS was published in the Federal Register on February 2, 1996 (61 FR 3932). The FEIS evaluates the potential environmental impacts of alternatives for managing the spent nuclear fuel (SNF) located in the K-East (KE) and K-West (KW) SNF storage basins at the Hanford Site located in southeastern Washington State.

Based on the analysis in the FEIS and after careful evaluation of environmental impacts, costs, compliance requirements, engineering considerations, worker and public health and safety, and public, agency and tribal comments, DOE has decided to implement the preferred alternative evaluated in the FEIS with two modifications and is documenting that decision in this ROD. The preferred alternative consists of removing the SNF from the basins, vacuum drying, conditioning and sealing the SNF in inert-gas filled canisters for dry vault storage in a new facility, to be built at Hanford, for up to 40 years pending decisions on ultimate disposition. The K Basins will continue to be operated during the period over which the preferred alternative is implemented. The preferred alternative also includes transfer of the basin sludge to Hanford's double-shell tanks for management, disposal of non-SNF basin debris in a low-level burial ground at the Hanford Site, disposition of the basin water, and deactivation of the basins pending decommissioning. The two modifications in the ROD are with respect to management of the sludge, and the timing of placement of the SNF into the transportation casks. The modification for management of the sludge is that should it not be possible to put the sludge into the double-shell tanks, the sludge will either continue to be managed as SNF, or disposed of as solid waste. The modification regarding placement of the SNF into the transportation casks would reduce the radiation exposure to the workers by placing the multicanister overpacks (MCOs) inside the transportation casks before the SNF is loaded into the MCOs, instead of loading the SNF into the MCOs prior to placing them inside the transportation casks.

ADDRESSES AND FURTHER INFORMATION: Requests for copies of the FEIS and for further information on the FEIS or ROD should be directed to: Dr. Phillip G. Loscoe, U.S. Department of Energy, P.O. Box 550, M/S S7–41, Richland, Washington 99352–0550. Dr. Loscoe may be contacted by telephone at (509) 376–7434 or at (800) 321–2008.

For further information on the DOE NEPA process please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585–0002. Ms. Borgstrom may be reached by telephone at (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

This ROD was prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR Parts 1500–1508), and DOE's NEPA Implementing Procedures (10 CFR Part 1021). The ROD is based on the analysis of environmental impacts identified in the FEIS, consideration of project costs, compliance requirements, engineering considerations, worker and public health and safety, and public, agency and tribal comments.

This ROD covers the management of approximately 2,100 metric tons (2,300 tons) of U.S. Government-owned SNF stored in the KE and KW storage basins at DOE's Hanford Site (about 80% of DOE's total inventory). Most of the SNF is from the N Reactor at Hanford, which operated from December 1963 until January 1987 producing materials for the U.S. national defense program and also producing steam that was used for generation of electricity. This SNF consists primarily of metallic uranium, but also contains about five metric tons (six tons) of plutonium and about one metric ton (1.1 ton) of radioactive fission products within the uranium fuel elements.

The KE and KW storage basins are concrete basins constructed in 1951 to temporarily store SNF from the adjacent KE and KW Reactors (nominally 0.5 to 1.5 years prior to reprocessing). The basins are located in the 100–K Area at the Hanford Site about 420 m (1,400 ft) from the Columbia River. The volume of each basin is about 4,900 m^3 (1.3 M gallons) and each basin is filled to about 93% of capacity with water. The water level in each basin is maintained at a depth of about 5 m (16 ft) to absorb heat from the radioactive decay of the fuel rods and to provide a radiation shield for protection of facility workers. SNF from the N Reactor has been stored in the KE Basin since 1975 and the KW Basin since 1981.

Prior to receiving N Reactor SNF the KW Basin was drained, cleaned and refurbished. The bare concrete surfaces were given an epoxy coating which helps keep radioactive elements such as cesium-137 from being absorbed into the concrete. The KW Basin has remained relatively clean because of this refurbishment and also because only sealed canisters of SNF have been stored there. The KE Basin did not receive refurbishment prior to receiving N Reactor SNF. In addition, the SNF in the KE Basin is in open canisters which allows water to come in contact with the fuel elements inside the canisters.

The principal environmental and safety concerns are associated with the KE Basin and arise from the presence of broken and corroding SNF, buildup of radioactive sludge on the bottom of the basin, deteriorating concrete with vulnerability to earthquake damage, leakage of contaminated water to the soil below the basin, and the presence of cesium-137 contamination of the concrete at the water line which, unshielded, can contribute to worker exposure to radiation. Conditions in KW Basin are not as serious because the SNF stored there is in sealed canisters.

In a November 1993 report entitled ''Spent Fuel Working Group Report on Inventory and Storage of the Department's Spent Nuclear Fuel and other Reactor Irradiated Nuclear Materials and their Environmental, Safety, and Health Vulnerabilities,'' DOE identified K Basins storage problems as requiring priority attention. Similarly, the Defense Nuclear Facilities Safety Board in its recommendation 94–1 to the Secretary of Energy dated May 26, 1994, recommended ''That the [DOE's] program be accelerated to place the deteriorating reactor fuel in the KE Basin at Hanford in a stable configuration for interim storage until an option for ultimate disposition is chosen. This program needs to be directed toward storage methods that will minimize further deterioration.''

Purpose and Need

The purpose of and need for DOE's action to which this ROD applies is to reduce risks to human health and the environment, specifically (1) to prevent the release of radioactive materials into the air or the soil surrounding the K Basins and the potential migration of radionuclides through the soil column to the nearby Columbia River, (2) to reduce occupational radiation exposure, and (3) to eliminate the risks to the public and to workers from the deterioration of SNF in the K Basins.

Alternatives Considered

Preferred Alternative

The preferred alternative is referred to in the FEIS as ''drying/passivation (conditioning) with dry vault storage''. In addition to construction of a staging/storage building at the Canister Storage Building (CSB) site, the proposed series of operations to achieve the preferred alternative is presented below. The details of the processes and perhaps their order are expected to change somewhat as the designs evolve and as the results of ongoing testing become available. However, the impacts of the following steps bound those necessary to place the K Basins SNF in safe dry storage:

- continue K Basin operations until the removal of SNF, sludge and debris, and disposition of the water is completed. Make modifications to the K Basins, as necessary, for maintenance, monitoring and safety, and provide systems necessary to support the activities described below
- remove K Basin SNF from existing canisters, clean and desludge
- repackage the SNF into fuel baskets designed for multi-canister overpack (MCO) dimensions, that would include provision for water removal, SNF conditioning requirements, and criticality control
- after loading SNF into the MCOs and draining the MCOs, dry the SNF under vacuum at approximately 50 °C (120 °F), flood the MCOs with inert gas, seal penetrations, and place in transportation casks
- transport the SNF (in MCOs) in these casks via truck to the Canister Storage Building (CSB) site in the 200 East Area, and provide for temporary vented staging, as necessary
- further condition the SNF in MCOs, as soon as practicable, heating the SNF in a vacuum to about 300 °C (570 °F) to remove water that is chemically bound to the SNF and canister corrosion products, and to dissociate, to the extent practicable, any reactive uranium hydride present.
- following conditioning, weld-seal the SNF in an inert gas in the MCOs for dry interim storage in a vault for up to 40 years (a storage period of 40 years was used in estimating impacts)
- collect and remove the sludge from the basins and disposition as waste in Hanford's double-shell tanks
- collect the non-SNF debris from the basins and dispose of as low-level waste in Hanford's existing low-level waste burial grounds
- remove and transport basin water to the 200 Area Effluent Treatment Facility

for disposal at the 200 Area State-Approved Land Disposal Site.

• prepare the K Basins for deactivation and transfer to decontamination and decommissioning program

Principal advantages of the drying/passivation (conditioning) with dry vault storage alternative are that it would accelerate removal of SNF from aging facilities in proximity to the Columbia River, would result in passive vault storage of dry SNF requiring only minimal surveillance, would retard continued degradation of the SNF and would reduce or eliminate reactive uranium hydrides in the SNF.

Principal disadvantages of this alternative are that the construction of new facilities would be required, and some uncertainty exists in the chemical state of the SNF and sludge and, therefore, in the extent to which drying and passivation processes would be required. However, defense-in-depth measures will be engineered to assure safety of the process. Moreover, characterization of K Basins SNF is presently being conducted to address these uncertainties which may result in a more cost-effective conditioning process.

Other Alternatives Considered

The FEIS analyzed six other alternatives for the management of SNF from the K Basins at the Hanford Site. The other alternatives examined in detail were:

• No action alternative: Under this alternative DOE would continue SNF storage in the KE and KW Basins for up to 40 years with no modifications except for maintenance, monitoring, and ongoing safety upgrades. Consideration of the no action alternative is required by CEQ regulation [40 CFR 1502.14(d)].

The principal advantage of the no action alternative is that it would require no movement of SNF and no construction of new facilities.

Principal disadvantages of this alternative are that the K Basins were not designed for an 80-year life (40 years to date and up to an additional 40 years) and would require increasing maintenance of aging facilities with associated potential for increased radiological impacts on workers, would not place the SNF in a safer storage configuration, would not preclude leakage of radionuclides to the soil beneath the basins and near the Columbia River, and would fail to alleviate concerns expressed by regulatory agencies, advisory bodies and the public relative to environmental impacts induced by seismic events.

• Enhanced K Basins storage alternative: Under this alternative DOE would perform facility life extension upgrades for KW Basin, containerize KE Basin SNF and sludge, and consolidate with KW Basin SNF for up to 40-year storage.

Principal advantages of the enhanced K Basins storage alternative are that it would remove degrading SNF from the KE Basin, permit deactivation of the KE Basin, and would require no construction of new facilities.

Principal disadvantages of this alternative are that the KW Basin was not designed for an 80-year life and would require increasing maintenance of the aging facility. Despite completion of practical upgrades, this alternative would not arrest continued fuel degradation, might result in conditions favorable to the production of reactive uranium hydrides in the repackaged KE Basin SNF transferred to the KW Basin, and would fail to alleviate concerns expressed by regulatory agencies, advisory bodies and the public relative to environmental impacts potentially induced by seismic events.

• New wet storage alternative: Under this alternative DOE would remove SNF from the K Basins and provide for up to 40 years of new wet storage in a new facility located on the 200 Areas plateau that meets current design criteria.

Principal advantages of the new wet storage alternative are that it would accelerate removal of SNF from aging facilities in the proximity to the Columbia River, would make use of a proven storage technology (at least for commercial fuel) coupled with design to modern seismic criteria, and would maintain flexibility for preparing SNF for ultimate disposition.

Principal disadvantages of this alternative are that it would require construction expense and continued maintenance, would not prevent the continuation of SNF degradation, and would not eliminate the potential for further hydriding of the SNF.

• Calcination with dry storage: Under this alternative DOE would remove SNF from the K Basins, calcine it, and provide for up to 40-year dry storage of SNF-oxides in a new cask or vault facility.

The principal advantages of the calcination with dry storage alternative are that it would remove the SNF from aging facilities near the Columbia River and that it would convert the SNF into stable oxides, which are readily storable in a dry form and may be suitable without further processing for ultimate disposal in a geologic repository.

The principal disadvantage of this alternative is the need to construct and operate a relatively expensive calcining facility.

• Onsite processing: Under this alternative the DOE would remove and chemically process K Basins SNF and provide for up to 40-year dry storage of the recovered uranium (as uranium trioxide) and plutonium (as plutonium dioxide), and manage fission product waste in tanks with other wastes under Hanford's Tank Waste Remediation System program.

Principal advantages of the onsite processing alternative are that it would remove the SNF from aging facilities near the Columbia River, convert uranium (the major constituent of SNF) into uranium trioxide that is readily storable in dry form and for which future use (constituent of power reactor fuel) might be found, convert plutonium to a stable oxide for which a future use (constituent of power reactor fuel) might be found or for which storage in a geologic repository may be suitable without further processing, and convert fission products into a form suitable for storage in a geologic repository.

Principal disadvantages of this alternative are the need to construct and operate a relatively expensive separations facility, the plutonium dioxide product would no longer be self-protecting and would require special storage and accountability that in turn may require construction of additional storage capacity, and no immediate need exists for either the separated uranium or plutonium.

• Foreign processing: Under this alternative, the DOE would remove K Basins SNF, ship overseas for processing, provide for up to 40-year dry storage of returned uranium (as uranium trioxide) and plutonium (as plutonium dioxide), and store vitrified fission product waste, pending ultimate disposition.

With the exception that foreign processing would obviate the need for construction of additional processing facilities at Hanford, the principal advantages of the foreign processing alternative are essentially the same as those for onsite processing.

Principal disadvantages of the foreign processing alternative are the need to transport the K Basins SNF to a U.S. shipping/receiving port, transload the SNF to ocean vessels, ship the SNF to a foreign port, transport the SNF to an operating reprocessing plant, and ship the uranium and plutonium products and vitrified high-level waste back to Hanford or elsewhere, as appropriate. Additional disadvantages include issues associated with the U.S. nuclear nonproliferation policy, unfavorable agency and public opinion regarding

shipping the degraded fuel off the Hanford Site, costs of new shipping casks, and construction of a new head-end facility at the processing plant. The need for special storage for plutonium product would be the same as in the onsite processing alternative.

In all but the no action alternative, sludge, debris, and contaminated water would be removed from the basins and managed appropriately.

DOE considered, but did not analyze in detail, four additional alternatives identified during the public scoping process. DOE determined that these alternatives were not reasonable in the sense of satisfying the purpose and need for this action. These alternatives, which involved relocation of the K Basins SNF to existing facilities that were in most cases adjacent to the Columbia River, would not meet the Department's objectives of expeditious removal of K Basins SNF and management of the SNF at a location away from the Columbia river.

Comments Received

DOE received comments on the draft EIS from six individuals and representatives of BNFL, Inc., the State of Washington Department of Fish and Wildlife, the State of Washington Department of Ecology, the Oregon Department of Energy, the Nez Perce Tribe, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of the Interior (DOI).

Responses to individual comments are provided in the FEIS (which consists of the draft EIS and an Addendum to the draft EIS). Reproductions of the as-received comment letters and the transcript of oral comments received are presented in Appendix A to the FEIS. Comments from EPA and DOI were received after the close of the public comment period and publication of the FEIS; these comments and DOE's responses will be made available in the public reading rooms listed in the FEIS.

Several representative comments and DOE's responses are paraphrased below.

Comment. Some commentors voiced concern about the pyrophoricity of the SNF, the potential for ignition and sustained combustion, and the potential for releases of radionuclides to the atmosphere.

Response. The concern for uncertainties in the potential for ignition of SNF is one of the principal drivers for both the DOE's defense-in-depth approach, which includes conditioning of the SNF followed by dry vault storage in sealed, inert-gas filled canisters, and the SNF characterization effort which is currently underway. The characterization work is intended to confirm the efficacy of planned process steps to assure safe SNF management via laboratory analyses of samples of the K Basins SNF.

Comment. Some commentors contended that SNF as packaged would not meet geologic repository requirements, hence the SNF should be processed so that the SNF and high-activity fission products could be put in a form acceptable to repository disposal.

Response. Acceptance criteria for the proposed geologic repository have not yet been determined. In the absence of the criteria for accepting defense SNF or high-level waste into the repository, it is not prudent to base currently needed SNF management decisions too heavily on the criterion of suitability for ultimate geologic disposition.

Comment. The EPA expressed concern that estimates of some accident probabilities were given without describing how the probabilities were derived.

Response. Except in a few instances, such as crane drops, there is no actual experience on which to base estimates of the probability of occurrence of accidents in SNF management as presented in the EIS. As a consequence, engineering judgement is used to qualitatively assess the likelihood of a postulated accident occurring. These qualitative judgments are then expressed as a numerical range of annual frequency of occurrence to permit development of some quantitative estimate of accident impacts that may be compared among the alternatives. While imprecise, these estimates represent the best information available to DOE at this time.

Comment. DOI acknowledged that radiological and nonradiological exposure risks to humans and consideration for special habitats occurring on the Hanford Site were addressed, but expressed concern that environmental impacts in terms of other biota were not addressed in the EIS and thus comparison among alternatives was not complete.

Response. As may be noted in the EIS, impacts on humans (including onsite noninvolved workers, which may be taken as representative of other onsite biota) from normal operations associated with any alternative were estimated to be very small. As a consequence, exposures to other biota and the consequences therefrom are also believed to be trivial to very small. Thus, while zero impact to other onsite biota cannot be claimed, scrutiny of environmental impacts to levels expressed by DOI is believed to be of minimal value in forming a basis for making decisions among the alternatives.

Comment. EPA noted that contrary to Section 6.10 of the draft EIS, DOE must apply for permission to construct any facility, regardless of emission projections expressed in Appendix D of the regulation.

Response. It is DOE's intent to comply with the letter and spirit of all applicable environmental requirements, and DOE will file for permission to construct the facilities associated with the preferred alternative. Although, as indicated by EPA, the requirement was misstated in Section 6.10, the requirement and intent to comply was correctly stated elsewhere in the EIS.

Comment. DOI commented that DOE should provide compensatory mitigation for habitat lost in the initial development of the canister storage building site.

Response. DOE does not plan to provide mitigation for the CSB site per se. However, DOE is committed to implementing the Hanford Biological Resources Management Plan (BRMP) when it is completed. This plan is intended to provide for responsible management of the Hanford ecosystem.

Environmentally Preferred Alternative

CEQ regulations (40 CFR 1505.2) require identification of the environmentally preferred alternative(s). Overall environmental impacts under normal operating conditions were found to be neither large nor to vary markedly among the alternatives. Since the no action alternative would involve the least handling of SNF and require no new facilities, under normal operating conditions it would have the lowest overall impacts. Hence, the no action alternative is the environmentally preferred alternative under normal operating conditions.

However, over the long term, implementation of the no action alternative is not prudent because it does not address the continuing degradation of the SNF, the increasing accumulation of radioactive sludge, the further contamination of the basin water and the unlikely, but not impossible, occurrence of an earthquake releasing substantial quantities of radionuclides to the air, ground and possibly the Columbia River.

Decision

Based on consideration of environmental impacts, costs, compliance requirements, engineering practicability, worker and public health and safety, and on comments received on the draft EIS, DOE will implement the preferred alternative, as described

above, with two modifications. The preferred alternative will involve removing the SNF from the basins, vacuum drying, conditioning and sealing the SNF in inert-gas filled canisters for dry vault storage for up to 40 years pending decisions on its ultimate disposition. The preferred alternative also calls for transfer of the basin sludge to Hanford's double-shell tanks for management, disposal of non-SNF basin debris in a low-level burial ground at Hanford, disposition of the basin water at the 200 Area State-Approved Land Disposal Site (SALDS), and deactivation of the basins pending decommissioning.

The first modification is with respect to sludge management. In the preferred alternative, sludge is to be dispositioned as waste in Hanford's double-shell tanks. However, while in the basins, the sludge will continue to be managed as spent nuclear fuel. Should it not be possible to put the sludge into the double-shell tanks, the sludge will either continue to be managed and treated as SNF, or grouted and packaged to meet the Solid Waste Burial Ground waste acceptance criteria. The impacts of alternate sludge management were analyzed in the FEIS and are small. By mass the sludge is about 0.5% of the SNF and impacts of continuing to manage the sludge as SNF would be negligible by comparison.

The second modification is with respect to the timing of the placement of the MCOs into the transportation casks. In the preferred alternative, the fuel baskets would be loaded into the MCO's, then drained and vacuum dried prior to placement in the transportation casks. However, placing the MCOs in the transportation casks prior to loading the fuel baskets into the MCOs will reduce the exposure of the workers to radiation during draining and vacuum drying.

The DOE selected the preferred alternative principally because it will alleviate concerns for protection of workers, public health and safety, and the environment (by expeditious removal of the SNF from the vicinity of the Columbia River), will utilize a partially completed existing facility (the CSB), will have few, if any, impacts on the physical environment (minimal new construction) and will be implemented at a cost on par with or substantially less than that of the other alternatives.

Mitigation

Implementation of the preferred alternative, which is drying/passivation (conditioning) with dry vault storage at the CSB site, is not expected to result in adverse impacts. As a consequence, preparation of a Mitigation Action Plan (10 CFR 1021.331) in the event of adverse impacts is not planned. Nevertheless, DOE is responding to Executive Order 12856 (58 FR 41981) and associated DOE Orders and guidelines by reducing the use of toxic chemicals, improving emergency planning, response and accident notification, and encouraging the development of clean technologies and the testing of innovative pollution prevention technologies. The pollution prevention program at the Hanford Site is formalized in a Hanford Site Waste Minimization and Pollution Prevention Awareness Program Plan. Moreover, DOE aggressively applies the principle of reducing exposure to both radioactive and toxic chemicals to as low as reasonably achievable (ALARA) throughout its operations.

Issued

This Record of Decision for the Management of Spent Nuclear Fuel from the K Basins at the Hanford Site, Richland, Washington is issued by the Department of Energy, Richland Operations Office, Richland, Washington on March 4, 1996.

John D. Wagoner,

Manager, DOE Richland Operations Office.

[FR Doc. 96–6291 Filed 3–14–96; 8:45 am]

BILLING CODE 6450–01–P

Electric Vehicle Field Test Program

AGENCY: Department of Energy (DOE), Idaho Operations Office (ID).

ACTION: Notice of solicitation.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office, in accordance with the Financial Assistance regulations in 10 CFR 600, announces competitive Solicitation Number DE–PS07–96ID13413 for DOE's Electric and Hybrid Vehicle Program. With this solicitation DOE intends to make financial assistance awards to support an Electric Vehicle Field Test Program.

AVAILABILITY OF SOLICITATION: Prospective applicants should send a written request for a copy of the solicitation and a DOE application instruction package (which includes standard forms, assurances and certifications) to the U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS–1221, Idaho Falls, Idaho 83401–1563, Attn: SOL DE–PS07–96ID13413 Connie Osborne, Contract Specialist (Telephone Number: 208–526–0093). Requests transmitted by facsimile at (208) 526–5548 will be accepted. It is advised that prospective applicants submit their requests in writing no later than March 29, 1996.

SUPPLEMENTARY INFORMATION: The Electric and Hybrid Vehicle program focusses on long-term and high-risk drive train and energy storage research in collaboration with industry. The program validates the results of its research activities using laboratory and field tests. The purpose of the solicitation is to select two or three independent test teams which are qualified to perform Baseline Performance, Reliability and Fleet tests of light duty electric vehicles. The tests in this request for applications will identify commercially viable electric vehicles. This is not a demonstration nor a deployment activity.

DOE anticipates awarding two or three Cooperative Agreements in accordance with DOE Financial Assistance Regulations appearing at Title 10 of the Code of Federal Regulations, Chapter II, Subchapter H, Part 600 (hereafter called 10 CFR 600) if funding is available. Approximately $1.2 million in federal funds are expected to be available to fund the first year of a three year testing effort. Cooperative Agreements will be in place for three years contingent upon receipt of program funding. No fee or profit will be paid to the award recipients. All testing work will be cost shared with DOE on a 50–50 basis, and the data generated under this testing program will be made public.

The statutory authority for this program is the Energy Policy Act of 1992 (Public Law 102–486 as amended by Public Law 103–437 on November 2, 1994). A copy of the solicitation may be accessed on DOE's Business Opportunities Home Page using the following Universal Resource Locator address: 'http://www.pr.doe.gov/propp.html'. The deadline for receipt of applications is 4:00 p.m. MDT, May 16, 1996.

Procurement Request Number: 07–96ID13413.000

Dated: March 1, 1996.

Brad G. Bauer,

Acting Director, Procurement Services Division.

[FR Doc. 96–6290 Filed 3–14–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is

hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge.

DATES: Wednesday, April 3, 1996: 6:00 p.m.–9:00 p.m.

ADDRESSES: Jacobs Engineering Group, Inc. Building, Einstein Conference Room, 125 Broadway, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

April Meeting Topics

The Board will be briefed on the planning for construction of a waste management facility for waste generated by the environmental restoration program and currently stored waste. Discussions will also continue on the standing rules for the Board.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 a.m. and 5:00 p.m. on Monday, Wednesday, and Friday; 8:30 a.m. and 7:00 pm on Tuesday and Thursday; and 9:00 a.m. and 1:00 p.m. on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC, on March 8, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–6292 Filed 3–14–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant.

DATE AND TIME: Tuesday, March 26, 1996: 1:30 p.m.–5:30 p.m.

ADDRESSES: Amarillo Association of Realtors, 5601 Enterprise Circle, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806)477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:30 pm Welcome—Introductions—Approval of Minutes
1:40 pm Co-Chairs' Comments
2:00 pm Task Force Reports
—Public Participation/Public Information Community ''Core Values'' Assessment
—Environmental Restoration
—Site-wide Environmental Impact Statements
2:30 pm Updates
—Occurrence Reports—DOE
—Agency for Toxic Substances Disease Registry, Rick Collins
3:00 pm Break
3:15 pm Discussion & Overview of Programmatic Environmental Impact
Statements and Pantex Site-wide Environmental Impact Statement
—State Agencies
—DOE
4:45 pm Subcommittee Reports
—Budget and Finance
—Community Outreach
—Policy and Personnel
—Program and Training
—Nominations
5:30 pm Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on March 8, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–6293 Filed 3–14–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

Voluntary Program To Provide Energy Efficiency Information for Luminaires

AGENCY: Office of Energy Efficiency and Renewable Energy.

ACTION: Notice of determination.

SUMMARY: The Energy Policy Act of 1992 (EPACT) requires the Secretary of Energy to make a determination on whether a voluntary national testing and information program for luminaires, developed by an appropriate organization, meets the objectives of the legislation. The Department of Energy has provisionally determined that the National Lighting Collaborative's voluntary testing and information program for luminaires will be consistent with the objectives of EPACT when it is demonstrated to the Department that the program has been fully implemented so that reliable and comparative energy efficiency information about luminaires is widely available to luminaire purchasers. A final determination will be made no later than December 15, 1998.

FOR FURTHER INFORMATION CONTACT:

Barbara Twigg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–8714

Edward P. Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507

SUPPLEMENTARY INFORMATION:

I. Authority

Section 126 of the Energy Policy Act of 1992 (EPACT), Public Law 102–486, directed the Secretary of Energy, after consulting with industry associations and other interested organizations, to provide technical and financial assistance to support a voluntary national testing and information program for those types of luminaires that are widely used, and for which there is a potential for significant energy savings as a result of such program. A luminaire is a complete lighting unit consisting of a lamp or lamps and ballasting (when applicable), together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. Under Section 126, the voluntary program would provide information that, when conveyed to consumers, would enable purchasers of the equipment to make more informed decisions about the energy efficiency and costs of competing products. The voluntary program would determine the luminaires to be covered; include specifications for testing procedures; and include information to be disseminated through catalogs, trade publications, labels, or other mechanisms, that would allow consumers to assess the energy consumption and potential cost savings of competing products. Such program would be developed by an appropriate organization (composed of interested persons), according to commonly accepted procedures for the development of national testing procedures and labeling programs.

EPACT requires the Secretary to make a determination not later than three years after the date of its enactment, as to whether the voluntary program that has been developed is consistent with the objectives established for the testing and rating of luminaires. If the Secretary determines that the voluntary program is not consistent with the objectives of the legislation, within two years of such determination the Secretary shall, after consultation with the National Institute of Standards and Technology, develop test procedures for luminaires. One year later, the Federal Trade Commission would prescribe labeling rules.

II. Background

Since the passage of EPACT, the Department of Energy has monitored the efforts of interested parties to develop a testing and information program through the National Lighting Collaborative (NLC or Collaborative), a working group composed of the National Electrical Manufacturers Association (NEMA), the American Lighting Association, lighting manufacturers, environmental organizations, designers, national laboratories, electric utility associations, and other lighting professionals. The Department has provided technical and financial assistance to the Collaborative to help launch and publicize the program. DOE held public meetings on May 24, 1994, and on January 5, 1995, to discuss the progress of the voluntary luminaire program and the evaluation criteria that would be considered by the Department in making the Secretary's determination. A June 15, 1995, Federal Register notice announced the Department's evaluation criteria and requested that the Collaborative submit a program description and status report of the voluntary luminaire program to the Department by July 14, 1995.

III. DOE Evaluation

The Collaborative submitted a program description and accompanying supporting materials, setting forth its voluntary national testing and information program for luminaires, on September 5, 1995, following a preliminary report submitted on August 5, 1995. Copies of both reports are available in the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC, (202) 586–6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

In carrying out its evaluation of the NLC's program, the Department has used the following criteria as discussed in the June 15, 1995, Federal Register notice: the organization and composition of the group designing the program; the selection of luminaires to be covered and potential for energy savings; the testing and rating procedures; the effectiveness of the program's energy efficiency information dissemination; the extent of manufacturer participation; the success in publicizing the new national program; the mechanisms for tracking market data and luminaire efficacy; and the plan and structure for continuing the program and incorporating new products. The following sections discuss in detail whether the voluntary luminaire program, as planned, will satisfy the objectives of Section 126 of EPACT.

a. Program Organization

The National Lighting Collaborative was established by the representatives of 23 organizations on April 14, 1992, as a consensus organization to resolve opinions on various aspects of lighting policy. The Collaborative includes in its active membership representatives from NEMA, the American Lighting Association, several luminaire manufacturers, the National Institute of Standards and Technology, the International Association of Lighting Designers, the Electric Power Research Institute, the American Council for an Energy Efficient Economy, the Alliance to Save Energy, and Lawrence Berkeley National Laboratory. Together, these participants represent a broad spectrum of opinion on lighting issues, including the varying perspectives of both private companies, testing and research groups, government organizations, utilities, and conservation and environmental groups. The luminaire manufacturer members of NEMA, which serves as the chair of the

Collaborative, represent between 60 and 80 percent of the production in the various fluorescent luminaire product categories, and the lamp and ballast manufacturer NEMA members represent over 90 percent of the production of those luminaire components. NEMA also serves as the administrator of the voluntary luminaire program, with funding provided through its regular membership dues.

The NLC solicits wide participation. Using a mailing list of over 75 individuals and organizations in addition to active participants, the Collaborative has successfully instituted a consensus-building review process through meetings and mailings to develop a broad-based voluntary luminaire program. Several difficult issues have been resolved through this process. For example, a Market Data Task Force was formed which resolved differences among NLC members on the extent of market data reporting that would be practical. The Luminaire Efficacy Rating (LER), the new testing and rating method for comparing the energy efficiency of luminaires, was created by NEMA and approved as NEMA Standard LE5. The Collaborative has developed technical and policy aspects regarding dissemination, publicity, and tracking of the new testing and rating program.

To date, most of the Collaborative's work has focused on the development, review, and enhancement of the voluntary luminaire program. Given its membership, structure, participation, and consensus-building review process, the Department believes the National Lighting Collaborative represents a cross-section of stakeholders, and meets the Energy Policy Act's call for an appropriate organization of interested parties to develop the voluntary luminaire program.

b. Coverage

Based on the recommendations of participating manufacturers, the Collaborative selected the following categories of fluorescent luminaires for inclusion in the voluntary program on the basis of their widespread use and significant potential for energy savings: (1) Recessed Lensed 2′×4′ (4 lamps); (2) Recessed Lensed 2′×4′ (3 lamps); (3) Recessed Lensed 2′×4′ (2 lamps); (4) Recessed Parabolic Louvered 2′×4′ (4 lamps); (5) Recessed Parabolic Louvered 2′×4′ (3 lamps); (6) Recessed Parabolic Louvered 2′×4′ (2 lamps); (7) Wraparound (2 and 4 lamps); (8) Strip (1 lamp); (9) Strip (2 lamps); and (10) Industrial (2 lamps). The NLC's program description and status report estimates that these luminaire categories in aggregate represent (1) at least 80 percent of the total commercial and industrial fluorescent luminaire sales volume (in dollars), and (2) within each of five fluorescent groups,[1] the named products represent over 90 percent of the fixtures in that group. Because of their predominance in market share as the most frequently used luminaires in the commercial and industrial sector, it is estimated by the NLC that the types of luminaires in these 10 categories operate for the most hours, thereby offering the greatest potential for cumulative energy savings. In addition, the program is being expanded to include technologies other than fluorescent: HID industrial luminaires and downlights will be added upon completion and approval of NEMA standards for testing and rating these types of luminaires.

If, as claimed, these categories of luminaires do comprise 80 percent of the total fluorescent luminaire market and show significant potential for energy savings because of their predominance in commercial and industrial use, the Department believes that their selection appears to provide a reasonable base for the initial phase of the program. The Department, however, cannot fully evaluate whether the selected luminaires are 80 percent of the luminaire market because it has not yet received the statistical information requested for verification. NEMA, however, has developed and circulated a statistical reporting form to lighting fixture manufacturers to verify this information. When DOE receives the results of this survey, it is anticipated that the verification data will confirm that the luminaires selected for initial inclusion in the voluntary program are those types that are widely used and for which there is a potential for significant energy savings as a result of such program.

c. Testing and Rating

Central to the NLC's program is that participating manufacturers will test and rate, for energy efficiency, each type of covered luminaire. The voluntary program uses the ''Luminaire Efficacy Rating'' (LER) as the measure of energy efficiency for a luminaire. Under the program, the LER of a given luminaire is determined by applying the calculation and testing procedures set forth in NEMA Standards Publication No. LE5, Procedure for Determining Luminaire Efficacy Ratings for Fluorescent Luminaires (NEMA Standard LE5). This approach provides a uniform method for determining the energy efficiency of luminaires that use various components (lamps, ballasts, fixtures), and for comparing different luminaires of the same general type. In addition, the program provides a method for comparing the energy costs of different luminaires.

The LER is a single figure that expresses luminaire efficacy in lumens per watt (the ratio of light output from the luminaire in lumens, to the power input to the luminaire in watts) for a given luminaire using a specific set of lamps (e.g., fluorescent tubes) and a specific ballast. The LER is calculated by the following formula:

$$LER=(EFF\times TLL\times BF)/\text{Watts Input}$$

where:

EFF=luminaire efficiency,
TLL=total lamp lumens,
BF=ballast factor, and
Watts Input=total wattage input to the luminaire as measured during the photometric test.

The TLL is the light output of the lamps being used in the test luminaire, as determined from a table in NEMA Standard LE5 that lists average rated lumens for typical fluorescent lamp types used in a luminaire. The EFF, BF and Watts Input are measurements by the luminaire manufacturer conducted during photometric tests. The EFF represents the effect of the luminaire being tested on the lamps' light output. It is the ratio of the light output of the test luminaire when operated with the lamps being used in the test, to the light output of the same lamps absent the luminaire. The BF represents the effect on lamp light output of the ballast being used in the test luminaire. The Watts Input is the amount of power drawn by the luminaire in the test.[2]

Thus, the LER of a luminaire is the product of the interactive effect of the components that comprise the luminaire—lamp(s), ballast(s), and the fixture itself. The higher the LER, the less energy will be used to produce a given amount of light in equivalent operating conditions. This metric is flexible in that efficiency improvements in either the lamp, ballast, or fixture can raise the LER.

The Collaborative reported that the selection of the Luminaire Efficacy Rating test procedure received consensus support within the luminaire industry, having been balloted according to the formal standards-making balloting procedures per the by-

[1] The groups are: recessed 2′×4′ lensed, recessed 2′×4′ louvered, plastic wraparound, strip lights, and industrial.

[2] For luminaires on which tests were completed prior to 1993, and which were tested with F40 T12 40 watt lamps, NEMA LE5 permits the use of specified values for ballast factor and Watts input.

laws of NEMA, a review and balloting process accredited by the American National Standards Institute (ANSI). The NLC program and NEMA Standard LE5 specify that luminaire efficiency (EFF) and wattage input shall be determined in accordance with IESNA LM–41, the Illuminating Engineering Society of North America's fluorescent luminaire photometric test procedure, a standard, industry-accepted test procedure. In addition, the ballast factor must be determined in accordance with ANSI C82.2, an ANSI-approved test procedure for ballasts. Other industry test procedures, ANSI C78.1 (Dimensional and Electrical Characteristics of Rapid Start Type Fluorescent Lamps) and C78.3 (Fluorescent Lamps—Instant-start and Cold Cathode Types—Dimensional and Electrical Characteristics), also apply.

To assure uniformity in testing, tests must be completed in a laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute for Standards and Technology (NIST) to perform the following tests for luminaires: IESNA LM–41 and IESNA LM–46. (LM–46 concerns the testing of HID industrial luminaires, which the NLC program is expanding to include.) The accreditation must be in accordance with NIST Handbook 150–1, which describes the accreditation program for energy efficient lighting products. It should be noted, as provided in Section 285.33 of Handbook 150–1, that in some instances a laboratory will be accredited to perform a test method but will not have the photometric equipment necessary to test certain of the luminaires covered by the test method. The laboratory will be precluded, therefore, from testing and rating those luminaires.

One matter not yet addressed by either the NLC program or NEMA Standard LE5 is the manner in which the reliability of the LER values derived from performing the foregoing tests is to be adequately assured. For example, for each luminaire rated, tested units should be representative of those being produced, and the test should provide a sufficient degree of confidence that the LER value determined will apply to units of the tested product that are available for sale. Such provisions would appear necessary to assure that the test procedures provided by the NLC program would produce adequately reliable information for consumers about energy consumption and costs.

The energy cost information called for in the program is calculated from a cost measurement formula set forth in NEMA Standard LE5, and adopted for use in the voluntary program. The calculation provides a single comparative measure called the yearly lighting energy cost (or yearly energy cost of light) for the luminaire's electricity costs (in dollars per 1,000 lumens), assuming comparable conditions of use (3,000 annual lighting operating hours and $0.08/KWh electricity cost, the 1993 average commercial sector electricity rate specified in NEMA Standard LE5). The yearly lighting energy cost provides a relative comparison of annual operating costs between luminaires. (Actual costs depend on electricity price, operating hours, and operating conditions). If the light output from two luminaires being compared is identical, the one with the higher LER will have the lower operating costs.

Because the Luminaire Efficacy Rating system will provide a uniform, comparative measure with which consumers can assess the relative energy consumption and potential cost savings of alternative products, and has been developed, as required by EPACT, ''according to commonly accepted procedures for the development of national testing procedures,'' DOE finds that in significant respects the NLC program satisfies the objectives of EPACT as to the test procedures to be included in a voluntary program for luminaires. DOE expects that the NLC will satisfactorily address the matter of the reliability of test results so that the program fully satisfies the requirements of Section 126 of EPACT.

d. Information Program

Section 126(a)(2)(C) of EPACT states that the program ''shall include information [about luminaires], which may be disseminated through catalogs, product literature, labels, or other mechanisms, that will enable consumers to assess the energy consumption and potential cost savings of alternative products.'' The NLC program calls for dissemination of each luminaire's LER and energy cost by sales catalogs and product literature, rather than labels, and for publicity and education activities directed at customer/users to inform them of the rating system. These methods were chosen because fluorescent luminaires are primarily purchased by commercial and industrial buyers based on printed specifications in catalogs or product literature.

Lighting specifiers such as designers, architects, electricians, or facility managers rarely see the packaging in which the luminaires are shipped, and may not even see the product itself until it is installed (if at all). By contrast, off-the-shelf purchasing is more typically done by residential customers, who currently constitute a small portion of the luminaire market. Therefore, labels on the luminaires or luminaire packaging might be ineffective, and the recommendation by the Collaborative that catalog literature and other product literature be the primary modes of information dissemination is sound. Since manufacturers typically reprint their catalogs on a three-year cycle, however, the Collaborative has agreed that the dissemination effort could be assisted by using other types of product and advertising literature which are produced more frequently, and by using an informed sales force to promote awareness of the new energy efficiency information among their customers. Several major manufacturers have already produced such materials and initiated sales presentations to explain and promote the new information system.

In addition to delineating formulas and test procedures for calculating the LER, NEMA Standard LE5 identifies the information concerning each luminaire's energy efficiency that should be included in a manufacturer's promotional literature and catalogs. Furthermore, it contains a suggested format, developed in consultation with and adopted by the Collaborative, for presenting that information. The format includes the catalog number (showing number of lamps), luminaire category, ballast type, luminaire lumen output, luminaire watts input, LER, yearly lighting energy cost for comparative purposes, and luminaire efficiency. The LER two-letter luminaire category code includes an ''F'' for fluorescent, as well as a second letter code indicating one of five major luminaire types. This ensures that luminaires from categories intended for similar design conditions will be compared with each other, rather than across dissimilar categories. It has also been proposed by the International Association of Lighting Designers (IALD) that the NEMA Standard LE5 reporting format be modified to include a measure for the quality of light, as well as efficiency. The Collaborative agreed, but since this ''quality metric'' is under development by professional committees of the IALD and the Illuminating Engineering Society of North America, the NEMA Standard LE5 will at first include an acknowledgement in the foreword that a numerical value for lighting quality will accompany the LER after the development of the measure is completed and balloted.

Based on the examples of major manufacturer product materials submitted thus far, the Department finds

the presentation of the new LER rating to be clear and well-presented overall. Explanations of how to use the new energy information were included in the product materials examples, and the LER rating number and yearly lighting energy cost were included effectively in photometric data sheets. One company, however, did not include in its descriptive product literature the letter indicating the luminaire category, which NEMA Standard LE5 states should be included in promotional materials and catalogs whenever the LER is provided. DOE believes that identification of the luminaire category is essential to ensure that LER values are compared between similar products, and not across product types. DOE expects to consider whether deficiencies such as the foregoing persist when making its final determination.

The NLC program report recognizes that the actual efficacy for a luminaire once in operation may differ from the original rating as a result of a substitution of one or more component parts (for example, replacement lamps or ballasts different from those for which the luminaire was rated). The NLC report states that manufacturers will inform their customers, through printed matter and other means, that a luminaire's LER will be altered if any of the luminaire's component parts are changed or substituted.

In sum, the NLC program contemplates that manufacturers will present the LER information as befits their own promotional styles, and that the Collaborative will reinforce the importance for manufacturers to include in their materials the information identified in NEMA Standard LE5.

Finally, with regard to the broader publicity and education activities directed at customer/users, the Department believes the Collaborative has made good progress in launching an energy information program for luminaires. The NLC's plan for disseminating information on the use of the LER system is wide-ranging, including magazine and newsletter articles, presentations at conferences, networking with other organizations, and international publicity. Major education and sales centers for the lighting industry are planning to include presentations on the LER. A NEMA Executive Roundtable meeting with the senior executives of fixture companies was held on August 30, 1995, to discuss the actions that are needed in support of the voluntary program. Presentations have also been made at Lightfair, the largest lighting trade show in the United States, and at the Illuminating Engineering Society of North America Annual Conference and Board meeting. The NLC states that an overview brochure on the luminaire energy information program will be prepared for widespread distribution by the National Lighting Bureau/NEMA, and articles are planned for trade association, research, and energy journals. The International Association of Lighting Designers, a member of the Collaborative, has agreed to track such articles and press coverage. The program states that IALD will develop a survey on awareness of the program to be used by manufacturers' representatives, distributors, and specifiers.

The Collaborative reported that the LER program is also receiving international attention. It is being reviewed for adoption and expansion by the Canadian Standards Association, and contacts have been made with Japanese, Australian, and New Zealand lighting organizations.

e. Manufacturer Participation

The success of the voluntary luminaire program will ultimately depend on the degree of manufacturer participation. Participating manufacturers agree to test their luminaires according to the procedures set forth in NEMA Standard LE5, to convey the resulting energy efficiency information in a style of their own choosing that complies with the specifications in NEMA Standard LE5, and to promote customer understanding of the new information program. As a first step in assessing the level of participation, the Collaborative has proposed that 25 percent of the industry-wide shipments (measured in dollars) of the products covered by the voluntary program will have energy efficiency information published in the supporting sales literature by one year from the date of publication of the Department's June 15, 1995, Federal Register notice outlining the evaluation criteria for the program. As an interim measure for data collection, the Collaborative has designed a statistical survey form which has been circulated to manufacturers for tracking this information. The program provides that the items in this survey will become part of the Bureau of Census' MA–36L report beginning in 1996, although, in fact, the items were included starting in the 1995 MA–36L report.

To date, the Collaborative has submitted to DOE examples of new catalog and other product literature in which four major manufacturers have included LER information, along with descriptions of the plans of two other major companies, and a summary of the industry's outreach to publicize the LER rating system. The Department finds that these efforts constitute a good beginning for participation in the luminaire program, and awaits the results of the first survey in order to assess formally the extent of manufacturer participation. It is expected that aggregate totals of the four manufacturers participating thus far will exceed the initial target of 25 percent participation.

In future years, expansion of the program is anticipated. A member of the Collaborative suggested goals for future participation levels, these goals were refined by the Collaborative, and DOE, in its June 1995 Federal Register notice, stated that it expects the voluntary program to achieve these levels of participation. They are as follows: that 50 percent of industry-wide shipments of the products would be covered by the voluntary program in 2 years from June 15, 1995, and approximately 75 percent in 3 years. The Collaborative believes that competition among manufacturers will encourage the rapid incorporation of LER energy efficiency information by other companies. DOE continues to expect the program to achieve the foregoing levels of participation when fully implemented.

f. Market Data

In order to provide a reporting format to track luminaire efficacy, the NLC proposed two additions to the Bureau of Census MA–36L report used for tracking luminaire sales data, and the Bureau approved and incorporated these changes beginning in 1995. The first addition reports the percentages of fluorescent luminaires sold with magnetic or electronic ballasts. Ballast type is a first-order indicator of luminaire efficacy (LER). The other addition reports quantities and values broken out by number of lamps. Since 4-lamp luminaires tend to have lower luminaire fixture efficiencies than 2- or 3-lamp luminaires, number of lamps per luminaire is a second-order indicator of LER. These new data can assist the Department in forming a baseline from which the efficacy of luminaires on the market can be estimated over time. Since the second addition to the Bureau of Census report uses the categories of luminaires covered by the voluntary luminaire program and specified in NEMA Standard LE5, the resulting data can also be used to track the percentage of the total fluorescent luminaire market that consists of products covered by the testing and rating program. This would verify that the LE5 categories cover at least 80 percent of the fluorescent luminaire market.

The Bureau of Census data for 1995 will be released in July 1996. The Department expects that the NLC will continue discussions of expanding the data related to luminaire efficacy that is reported through a format such as the Bureau of Census. Such reporting could possibly include an average LER by luminaire type.

g. Continuation of the Program

The Department finds that the Collaborative has established a workable administrative framework for continuing the voluntary program and incorporating new products. NEMA will continue as the administrator of the Collaborative and the voluntary program. The Collaborative will continue to meet periodically to assess and update the program, to insure consensus on the direction of the program, and to address any concerns expressed by the Department.

The process for evaluating which new products should be added to the list of covered products in the voluntary program, and which should be deleted, will be incorporated with the regular reassessment by NEMA of its standards. All NEMA standards are routinely reviewed within five years after their publication date for possible revision, renewal, or recision. Since NEMA Standard LE5 was first published in 1993, the fluorescent luminaire testing and rating method will be reviewed by 1998 and updated as appropriate, with consensus review by the Collaborative. The review of the entire standard will include the reevaluation of such statistical data as the 1993 average commercial sector electricity rate specified in the original version of NEMA Standard LE5.

NEMA is already developing an HID industrial standard and a downlight luminaire standard related to the LER. The NLC will be part of the review process once these are in draft public review form. The NLC report also states that 2′×2′ and 1′×4′ fluorescent luminaires, types that are rapidly gaining in market share, will be considered for addition to the voluntary program.

Collaborative members believe that the program will also achieve self-sustaining continuity through the marketplace, as the LER energy efficiency rating adds competitive value to rated products, and manufacturers which have not included this information find themselves at a competitive disadvantage.

IV. Determination

Based on the Department's evaluation of the NLC's program structure, current implementation, and future plans, the Department believes that the critical elements of a voluntary national testing and information program to provide energy efficiency information for luminaires are already operational or under development, and that the program is likely to mature and expand so as to meet all of the requirements for such a program in Section 126(a) of EPACT. Key elements of the program now in place include the LER rating method to measure the energy efficiency of luminaires, test procedures to be performed in accredited laboratories, a core organizational group in the National Lighting Collaborative with administrative services provided by NEMA, a list of luminaires covered in the initial phase of the program, the identification of the energy efficiency information to be disseminated by manufacturers, and the methods for such dissemination. Other measures, such as planned publicity initiatives for the program and a market data reporting system, have made good progress and are expected to be completed within approximately two years.

However, because the program is still in the initial stages of implementation, the Department has an insufficient basis for making a final determination. Based on the current design of the program and the Collaborative's plans, it is anticipated that the program will cover, within three years, product categories representing 80 percent of the fluorescent luminaire market, and approximately 75 percent of the unit sales within these categories; assure that each LER rating derived from testing will be generally valid for the tested products; make the luminaire marketplace aware of the voluntary program; and expand the program to include downlights and HID industrial luminaires. In order for the Department to evaluate progress in these areas, close collaboration between the Collaborative and the Department should be maintained to facilitate exchange of information and program updates. If the Collaborative provides data and documentation to DOE by July 15, 1998, on the achievements of the NLC program, including information as to whether the above objectives have been met, then DOE can make its final determination.

For these reasons, it is hereby determined provisionally that the National Lighting Collaborative's program is consistent with the objectives of Section 126(a) of EPACT. If the objectives set forth in the preceding paragraphs have been completed, DOE will make a final determination that the program meets the statutory objectives. DOE expects to make a final determination no later than December 15, 1998.

V. Relationship to Mandatory Energy Conservation Programs

Certain aspects of the NLC's voluntary program for luminaires involve matters covered by mandatory energy conservation test procedures, labeling, and standards imposed under the Energy Policy and Conservation Act (EPCA), as amended. For example, both the luminaire efficiency rating in the NLC program and the mandatory requirements for lamps involve consideration of the light output of lamps.

The NLC program, however, is designed to provide a consistent approach to the testing and dissemination of energy efficiency information only for luminaires. It is not intended to affect mandatory requirements for other products. Therefore, to the extent DOE approves the NLC program as meeting the objectives of Section 126 of EPACT, such approval does not indicate any view by DOE as to the appropriate content of any mandatory program. Moreover, neither the provisions of the voluntary program, nor actions under that program, in any way govern any mandatory requirements imposed under EPCA.

Nevertheless, DOE hopes that any future modifications in the NLC voluntary program can be sufficiently well coordinated with mandatory testing and labeling requirements to minimize any conflicts that might place added burdens on the manufacturers, retailers, or buyers of the affected lighting products.

Issued in Washington, DC on March 6, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 96–6294 Filed 3–14–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Energy Research Financial Assistance Program Notice 96–12; Natural and Accelerated Bioremediation Research Program—Science Team Leadership

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting cooperative agreement applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research, U.S.

Department of Energy (DOE), hereby announces its interest in receiving applications for cooperative agreements that establish Science Teams for the Natural and Accelerated Bioremediation Research Program (NABIR). The NABIR Science Teams are divided into the following element areas: Acceleration; Biomolecular Science and Engineering; Biotransformation and Biodegradation; Community Dynamics and Microbial Ecology; Biogeochemical Dynamics; Assessment; and System Integration, Prediction, and Optimization.

DATES: The deadline for receipt of formal applications is 4:30 p.m., E.D.T., May 7, 1996, in order to be accepted for merit review and to permit timely consideration for award in fiscal year 1996.

ADDRESSES: Formal applications referencing Program Notice 96–12 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 96–12.

This address also must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. D. Jay Grimes, Environmental Sciences Division, ER–74, Office of Health and Environmental Research, Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–4183, e-mail darrell.grimes@oer.doe.gov, fax (301) 903–5219 or Dr. John Houghton, same address, (301) 903–8288, john.houghton@oer.doe.gov, fax (301) 903–7363.

SUPPLEMENTARY INFORMATION: The mission of the NABIR program is to provide the scientific understanding needed to harness natural processes and to develop methods to accelerate these processes for the bioremediation of contaminated soils, sediments, and groundwater at DOE facilities. The program will be implemented through seven interrelated program science elements; Acceleration; Biomolecular Science and Engineering; Biotransformation and Biodegradation; Community Dynamics and Microbial Ecology; Biogeochemical Dynamics; Assessment; and System Integration, Prediction, and Optimization. The Program Plan for the NABIR program (DOE/ER–0659T) contains a more complete description of the NABIR program and each of the science elements. It is available via the Internet using the following address:

http://www.er.doe.gov/production/oher/nabir/cover.html. The NABIR Plan is also available from the Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831 (DOE and DOE contractors only) and the U.S. Department of Commerce, Technology Administration, National Technical Information Service, Springfield, VA 22161, (703) 487–4650 (public source).

Each program science element will be directed by a program manager from OHER, who will be responsible for providing support and overall direction for the element, including determining the relevance of the goals and objectives of the program element to the NABIR and other DOE programs. Each program science element will also have a Science Team Leader (STL) who will provide scientific leadership to the community of the researchers in that element. The selection of the STL is expected to include a commitment to fund research undertaken by the STL. STL's will not be eligible for additional research funding from the NABIR program.

The STL, in cooperation with and in response to direction from DOE/OHER, will be responsible for contributing scientific leadership within the program science element. Specific responsibilities of the Science Team Leader include:

Work to develop scientific direction for research in the program science element;

Assisting in identifying research opportunities and directions (e.g., hold workshops, attend relevant meetings and colloquia);

Providing coordination among the investigators in the program element and with other NABIR elements;

Communicating research findings to relevant audiences;

Identifying targets of opportunity and encouraging research directed at those targets; and

Conducting the research presented in the application and approved for funding.

Specific responsibilities of DOE/OHER will include:

Determining relevance of the goals and objectives and overall direction for the science element to the overall NABIR Program and to other DOE programs;

Providing access to suitable Field Research Centers;

Facilitating the Federal, state, and local regulatory process;

Providing access to data storage, retrieval, and analysis systems; and

Coordinating NABIR with other relevant government and non-government programs.

Applicants may apply for more than one Science Team Leader position and should clearly indicate whether their intent is to lead one science element or more than one science element.

Applications must demonstrate the STL's ability to conduct interdisciplinary research relevant to the science element and to coordinate and focus other scientists' research. The application should include a description of the proposed research project and a budget plan that fully addresses both the proposed research and the Science Team leadership activities. Information regarding the following scientific and management attributes for a science team leader should be included as part of the application:

An understanding of the existing knowledge and of the science and engineering research directions for the particular science element or elements;

A history of strong research accomplishments in the science element or elements;

An interest in becoming a ''team leader'' for the element or elements;

A history of successfully mentoring scientists, recruiting, and fostering new talent;

Networking and coordination skills; and

A commitment on the part of his/her institution to the principles and successful operation of NABIR.

Up to seven awards are anticipated, from approximately $3 million available in the first year (each award approximately $300,000 to $500,000 per year for three years).

Information about development, submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR Part 605; and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone requests may be made by calling (301) 903–3338. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following e-mail address: http://www.er.doe.gov/production/grants/guide.html. The Office of Energy Research (ER), as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by ER and

performing research involving recombinant DNA molecules shall comply with the National Institutes of Health ''Guidelines for Research Involving Recombinant DNA Molecules'' (51 FR 16958, May 7, 1986), or such later guidelines as may be published in the Federal Register. The application must be 15 pages or less, exclusive of attachments.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on March 1, 1996.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 96–6295 Filed 3–14–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–97–000]

Eastern Shore Natural Gas Company; Notice of Technical Conference

March 11, 1996.

Take notice that a technical conference will be convened in the above-docketed proceeding on Wednesday, March 27, 1996, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214, and any participant, as defined in 18 CFR 385.102(b), is invited to participate.

For additional information, please contact Carolyn Van Der Jagt, 202–208–2246, or Tom Gooding, 202–208–1123, at the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6180 Filed 3–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11077–001 Alaska]

Alaska Power & Telephone Company; Notice of Availability of Draft Environmental Assessment

March 11, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original, major unconstructed license for the Goat Lake Hydroelectric Project, and has prepared a Draft Environmental Assessment (DEA) for the project. The project is located on Pitchfork Falls, about 7 miles from the town of Skagway, in southeast Alaska.

In the DEA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact Mr. Carl Keller, Environmental Coordinator, at (202) 219–2831.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6179 Filed 3–14–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5440–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Pretesting and Evaluation of Risk Communication Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (EPA ICR Number 1552.03; OMB Control Number 2010–0022: Pretesting and Evaluation of Risk Communication Activities, expires 04/30/96). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 14, 1996.

ADDRESSES: Interested persons may obtain a copy of the ICR, without charge, by contacting Dr. Lynn Desautels, Office of Policy, Planning and Evaluation, U.S. EPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dr. Lynn Desautels, 202–260–6995 (phone); 202–260–7875 (FAX).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which would be audiences for risk communication messages from EPA.

Title: Pretesting and Evaluation of Risk Communication Activities, OMB Control Number 2010–0022. Expires 4/30/96.

Abstract: The U.S. EPA continues to use risk communication as a risk management tool. EPA uses risk communication (1) to encourage individuals to make voluntary behavior changes which will reduce their level of personal risk from exposure to specific environmental contaminants or conditions, and (2) to improve compliance with environmental regulations. Evaluating the effectiveness of risk communication activities is important; such evaluations allow EPA to learn from its efforts, improve them, and conduct them as effectively as possible. A number of low cost risk communication evaluation methods are available for pretesting materials, evaluating risk communication processes, and evaluating outcomes and impacts. These methods require only a modest respondent burden, and participation is entirely voluntary. There is no cost to respondents. Since many of EPA's risk communication activities are relatively low cost and do not warrant extensive or costly evaluations, this information collection request (ICR) seeks continued approval for conducting small scale evaluations of risk communication activities. 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.

The EPA would like to solicit comments to:

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

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

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

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

Burden Statement: EPA estimates that costs for any given year would be approximately $32,000 (EPA staff time) and $664,000 (contractor support). There are no costs to respondents, since participation is entirely voluntary. The hour burden for respondents is estimated at no more than 870 per year, with an average time per respondent of 1 hour per year. 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 be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 7, 1996.

Wendy Cleland-Hamnett,

Director, Office of Sustainable Ecosystems and Communities.

[FR Doc. 96–6243 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5442–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; the 1997 Hazardous Waste Report (Biennial Report) Under the Resource Conservation and Recovery Act (RCRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) to allow the Agency to collect data for the 1997 Hazardous Waste Report (Biennial Report). This Report is a compilation of information that is required to be submitted to EPA under sections 3002 and 3004 of the Resource Conservation and Recovery Act (RCRA) every two years by generators and managers of hazardous waste. This ICR is a reinstatement of a previously approved information collection. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 14, 1996.

ADDRESSES: U.S. Environmental Protection Agency, Analysis and Information Branch (5302W), 401 M Street SW, Washington, DC 20460. Interested persons may obtain a copy of the draft ICR by calling (703) 308–8440.

FOR FURTHER INFORMATION CONTACT: Robert Burchard, Analysis and Information Branch. (703) 308–8440.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by this action are generators and owners/operators of hazardous waste management facilities.

Title: 1997 Hazardous Waste Report, EPA ICR #0976.06, OMB No. 2050–0024.

Abstract: Generators and owners/operators of hazardous waste management facilities must compile, under RCRA sections 3002 and 3004, a biennial report of information on location, amount, and description of hazardous waste handled. EPA uses the information to define the population of the regulated community and to expand its data base of information for rulemaking and compliance with statutory requirements. 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.

EPA is soliciting comments on the following three options for the 1997 Hazardous Waste Report ICR:

(i) Renewing the existing ICR which authorized collection of information for the 1995 Biennial Report cycle. This would entail sending out Biennial Report Instructions and Forms identical to those used for the 1995 Biennial Report cycle.

(ii) Modifying the existing ICR. In fitting with the Agency's goal to significantly reduce paperwork burden, the Agency might make modifications to the existing 1995 Biennial Report forms such as eliminating the waste minimization questions, eliminating the entire Waste Treatment, Disposal, or Recycling Process Systems (PS) form, not collecting information on exempt wastes (e.g. wastewaters); and collecting information from only the larger generators, such as those which also report in the Toxics Release Inventory or those generating over 50,000 tons of waste per year. The Agency solicits comment on these and/or other potential modifications to the existing Biennial Reporting System forms. Specifically, the Agency is seeking comment on the following questions as they pertain to the information that is ordinarily obtained from the waste minimization questions, the PS form, and the information on the exempt wastes: who the users of this information are; shortcomings with the BRS as a collection method for this information; mechanisms other than the BRS to collect this information; and ways to improve the BRS as a collection method for this information.

(iii) Not renewing the Biennial Report ICR. Under this option, the Agency would not collect data for a 1997 Biennial Report cycle. Instead, it would undertake, during that time, a comprehensive reevaluation of the Biennial Report process in anticipation of developing a revamped Biennial Report process for the 1999 cycle. While the Agency has concerns whether this option meets the Agency's legal mandate, the Agency is still interested in comments on the impacts of this option and how we could be responsive to sections 3002 and 3004 of RCRA. The Agency is particularly concerned that this option could have serious impacts on a significant number of State programs. Therefore, the Agency specifically solicits comments on the effects this option would have on the operation of existing State hazardous waste programs. The Agency also specifically solicits comment on other methods of information collection that would satisfy the RCRA sections 3002 and 3004 requirements: using Toxics Release Inventory data along with information from hazardous waste permits; using survey techniques combined with valid statistical sampling methodologies as an alternative to a total census; or requiring the authorized States, rather than EPA, to collect the Biennial Report information (if commenting on this option, please indicate how non-authorized States would collect the Biennial Report information).

The Agency is also soliciting comments that:

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

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Burden Statement: The estimated average public burden for renewing the existing ICR is about 21 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering the data needed, reviewing the collection of information, and submitting the form.

Respondents: Generators and Handlers of Hazardous Waste.

Estimated number of Respondents: 20,250.

Frequency of Collection: Biennial.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 234,900 hours.

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 be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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

Elliott P. Laws,

Assistant Administrator.

[FR Doc. 96–6245 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5442–5]

Agency Information Collection Activities Under OMB Review; New Collection; Design for the Environment (DfE) Collection of Impact Data on Technical Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Office of Prevention, Pesticides and Toxic Substances (OPPTS) is seeking approval for a new Information Collection Request (ICR) from the Office of Management and Budget (OMB). As such, OPPTS has forwarded the following ICR to OMB: Design for the Environment (DfE) Collection of Impact Data on Technical Information (OMB Control No. 2070—(to be assigned); EPA ICR No. 1768), which is abstracted below. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument. On September 29, 1995, OPPTS published a notice in the Federal Register (60 FR 50568), requesting comment on this proposed collection and the draft ICR. OPPTS did not receive any comments.

DATES: Comments must be submitted on or before April 15, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, 202–260–2740, and refer to EPA ICR No. 1768.

SUPPLEMENTARY INFORMATION:

Title: Design for the Environment (DfE) Collection of Impact Data on Technical Information (OMB Control No. 2070-(to be assigned); EPA ICR No. 1768). This is a new collection.

Abstract: EPA's DfE program is a voluntary, non-regulatory approach to encourage industry to adopt technologies and use materials that result in lower levels of pollution, lessened reliance on toxic materials, higher energy efficiency and lower environmental health risks. Through DfE, EPA creates partnerships with industry, professional organizations, state and local governments, other federal agencies and the public to develop and disseminate technical information.

This is a generic ICR for a series of surveys, referred to as DfE Technical Information Impact Studies, to undertake data collection in support of EPA's DfE program. The studies will focus on various industrial sectors such as printing, printed wiring board circuitry, and dry cleaning. The purpose of all DfE Technical Information Impact Studies is to evaluate the impact of DfE technical information on industry practices, use of materials and waste generation. In each case, EPA, often in collaboration with industry associations and universities, will have developed technical information for industry on the use of product reclamation processes and other workplace practices that may lower health risks to workers and prevent pollution. The proposed studies will each involve two separate surveys of owners or operators of target industry establishments. The initial survey will establish a baseline representing pre-technical information receipt. A follow-up survey will be administered approximately two years later to establish longer-term impacts of the technical materials. The overall goal of this before-and-after design is to understand the impacts of DfE technical information on workplace practices and technologies that generate or prevent pollution. This generic ICR will allow EPA to conduct a series of small conceptually interrelated surveys. It will permit the DfE program the ability to collect information in a timely manner and to evaluate the effectiveness of the technical materials EPA provides to industry. EPA will be the principal user of information developed from the survey findings, but EPA expects that tens of thousands of small businesses in a variety of industry sectors will benefit from the results of the studies. Responses to the collection of information are voluntary. EPA and the EPA contractor administering the survey will observe strict confidentiality precautions, based on the Privacy Act of 1974, which are outlined in detail in the ICR.

Burden Statement: EPA plans to conduct no more than eight surveys under the three year life cycle of the generic clearance. For each study, EPA expects that there will be an average burden of approximately 1.25 hours per response, and that the number of respondents will average 300 for each study. Thus, the total expected respondent burden is estimated at 375 hours for each survey. Over the three year life of the clearance, the total estimated respondent burden would be 3000 hours based on an estimated eight collections; the annual average estimated respondent burden would be 1000 hours. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and

maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

Respondents/Affected Entities: Printing industry, Printed Wiring Board Circuitry, Dry Cleaning and other industry sectors that may interact with EPA in the Agency's Design for the Environment (DfE) program.

Estimated Number of Respondents: 300 per individual study.

Estimated Total Annual Burden on Respondents: 375 hours per individual study.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 1768.02 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2137), 401 M Street, SW., Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: March 11, 1996.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 96–6237 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5441–8]

Agency Information Collection Activities Under OMB Review; Application for Registration of Pesticide-Producing Establishments (EPA Form 3540–8), Notification of Registration of Pesticide-Producing Establishments (EPA Form 3540–8A) and Pesticide Reports for Pesticide-Producing Establishments (EPA Form 3540–16) (ICR #0160 and OMB #2070–0078)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the Information Collection Request (ICR) for Application for Registration of Pesticide-Producing Establishments, and Pesticide Reports for Pesticide-Producing Establishments described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument, i.e., forms. Also included is the Notification of Registration of Pesticide-Producing Establishments, which EPA uses to notify the company of their newly registered pesticide-producing establishments.

DATES: Comments must be submitted on or before April 15, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer, 202–260–2740, and refer to EPA ICR No. 0160.

SUPPLEMENTARY INFORMATION:

Title: Application for Registration of Pesticide-Producing Establishments, Notification of Registration of Pesticide-Producing Establishments, and Pesticide Reports for Pesticide-Producing Establishments (OMB Control No. 2070–0078; EPA ICR No. 0160). This is a request for an extension of a currently approved collection.

Abstract: Section 7 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires producers of pesticide products, active ingredients, and devices to register their production establishments with the Environmental Protection Agency (EPA) and to submit an annual report on the types and amounts of products produced. The purpose of this notice is to request renewal of the collection processes and reporting processes needed to assure compliance with these requirements. These processes involve EPA Form 3540–8, Application for Registration of Pesticide-Producing Establishments, EPA Form 3540–8A, Notification of Registration of Pesticide-Producing Establishments, and EPA Form 3540–16, Pesticide Reports for Pesticide-Producing Establishments.

Establishment registration information, collected on EPA Form 3540–8, is a one-time requirement for all pesticide-producing establishments. Pesticide production information, collected on EPA Form 3540–16, is required to be submitted within 30 days of receipt by the producer of the Notification of Registration of Pesticide-Producing Establishment (EPA Form 3540–8A, prepared by EPA and used to notify producers that their establishments have been registered) and then annually thereafter. The information is entered and stored in EPA's Office of Enforcement and Compliance Assurance (OECA)/Office of Compliance (OC) Section Seven Tracking System (SSTS), a computerized data processing and record-keeping system.

The OC collects the establishment and pesticide production information for compliance purposes and risk assessment. The information is used by EPA Regional pesticide enforcement and compliance staffs, OECA, and the Office of Pesticide Programs (OPP) within the Office of Prevention, Pesticides and Toxic Substances (OPPTS), as well as the U.S. Department of Agriculture (USDA), the Food and Drug Administration (FDA), other Federal agencies, States under Cooperative Enforcement Agreements, and the public.

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. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/28/95 (60 FR 50200), and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be an average of 18 minutes for a one time response for EPA Form 3540–8, and 1 hour and 26 minutes for the annual yearly response for EPA Form 3540–16. There is no public burden to fill out the notification form (EPA Form 3540–8A) because EPA completes this form. 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 be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

EPA Form 3540–8

Respondents/Affected Entities: [700].
Estimated Number of Respondents: [700].
Frequency of Response: [1].
Estimated Total Annual Hour Burden: [210] hours.
Estimated Total Annualized Cost Burden: $[15,218].

EPA Form 3540–8A

EPA Burden only.

EPA Form 3540–16

Respondents/Affected Entities: [12,562].
Estimated Number of Respondents: [12,562].
Frequency of Response: [Yearly].
Estimated Total Annual Hour Burden: [17,963] hours.
Estimated Total Annualized Cost Burden: $[1,291,421].

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0160 and OMB Control No. 2070–0078 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: March 11, 1996.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 96–6239 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5441–9]

Agency Information Collection Activities Under OMB Review; Notification of Arrival of Pesticides and Devices (EPA Form 3540–1) (ICR #152.05 and OMB #2070–0020)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the Information Collection Request (ICR) abstracted below, Notice of Arrival of Pesticides and Devices (EPA Form 3540–1, OMB Control No. 2070–0020: ICR No. 152.05), has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 15, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:
Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 152.03.

SUPPLEMENTARY INFORMATION:

Title: Notice of Arrival of Pesticides and Devices (EPA Form 3540–1, OMB Control No. 2070–0020: EPA ICR No. 152.05). This is a request for an extension of a currently approved collection.

Abstract: Pursuant to section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) U.S. Customs is required to notify EPA prior to the import of pesticides or devices into the United States. To assist in meeting this requirement, importers, who may be represented by brokers, agents, or consignees, must present a Notice of Arrival (NOA, EPA Form 3540–1) to the EPA informing the Agency of the arrival of the imported pesticide products as required by 19 CFR 12.112. The form is submitted to the EPA regional address (printed on the reverse side of the form) having jurisdiction over the port through which the product or device is to be imported.

Part I of the form requests identification and address information of the importer or his agent followed by information on the imported pesticide or device, e.g., the active ingredients or devices produced, brand name, the product registration number (for pesticides but not devices), and the establishment registration number. Certain information reported on the form (name and address of broker or agent, of importer or consignee, and of shipper, along with unit size, quantity, total net weight, country of origin, port of entry, carrier, entry number, and entry date) may be claimed as Confidential Business Information (CBI). Other information (EPA Registration Number, EPA Producer Establishment Number, the brand name of product, and major active ingredients and percentage of each) may not be claimed as CBI.

EPA regional personnel review the completed form for completeness and accuracy and to determine: (1) if, in the case of pesticides but not devices, the product is registered and has a valid registration number, and if the product contains an active ingredient that has been suspended or cancelled; (2) if the product was produced in a currently registered establishment; and (3) if the product is misbranded. EPA resolves any discrepancies on the report with the importer or his agent. If the information on the form is correct, Part II is signed and the form is returned to the respondent with approval.

Upon the arrival of the shipment, the importer presents the NOA to the District Director of U.S. Customs at the port of entry. The U.S. Customs compares entry documents for the shipment with the Notice of Arrival; it notifies the EPA regional office of any discrepancies between the NOA and the entry documents and, in the absence of a discrepancy, releases the shipment for entry. Customs signs Part III of the form, returns the Official File Copy to EPA, and retains the Customs' Copy to complete this portion of the transaction.

The purpose of this reporting requirement is to help insure that pesticides and devices entering the U.S. comply with U.S. laws governing such products. Uniform reporting of information submitted for pesticides arriving in the customs territory of the U.S. is necessary to monitor compliance with FIFRA, to identify the responsible party in cases of violations, and to determine specific information regarding the source of any pesticide in question. The information permits EPA to stop ineffective, unregistered, suspended, cancelled, misbranded, contaminated, or otherwise violative products from being imported into the country, track those that do enter, and minimize adverse environmental impacts that might arise from the importation of violative products. Additionally, by requiring brokers/agents to offer documentation to Customs and EPA of the importation of registered pesticides, the flow of commerce for approved products is facilitated. The information collected is used by EPA regional pesticide enforcement and compliance staff, the Office of Enforcement and Compliance Assurance and Office of Pesticide Programs. U.S. Customs, the U.S. Department of Agriculture, the Food and Drug Administration, and other Federal agencies also make use of this 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. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 28, 1995 (60 FR 58622). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.30 hours per response. 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 be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Persons importing pesticide products and devices.

Estimated number of respondents: 7,000 annually.

Estimated number of responses: 7,000 annually.

Frequency of response: Once per shipment of pesticide or device imported.

Estimated total annual hour burden: 2,100 hours.

Estimated total annualized cost burden: $188,093.

Please send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing the respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR 152.05 and OMB Control No. 2070–0020 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: March 11, 1996.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 96–6240 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5441–7]

Agency Information Collection Activities Under OMB Review; New Source Performance Standards (NSPS) for Municipal Waste Combustors (Subpart Ea) Reporting and Recordkeeping OMB No. 2060–0210 and EPA No. 1506.07

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standards for Municipal Waste Combustors (MWC) Subpart Ea—Reporting and Recordkeeping Requirements (EPA ICR No. 1506.07; OMB No. 2060–0210), with expiration date of May 31, 1996. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 15, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1506.07.

SUPPLEMENTARY INFORMATION:

Title: NSPS for Municipal Waste Combustors Subpart Ea (OMB Control No. 2060–0210; EPA ICR No. 1506.07); Expiring May 31, 1969. This is a request for renewal of a currently approved information collection request.

Abstract: These standards apply to municipal waste combustors (MWC) units with a capacity greater than 225 megagrams per day (250 tons per day) of municipal solid waste or refuse-derived fuel, for which construction, modification, or reconstruction commenced after December 20, 1989 and until September 20, 1994. Owners or operators of such units must provide EPA, or the delegated State regulatory authority, with the one-time notifications and reports, and must keep records, as required of all facilities subject to the general NSPS requirements. In addition, facilities subject to this subpart must install continuous monitoring systems (CMS) to monitor specified operating parameters to ensure that good combustion practices are implemented on a continuous basis. Owners and operators must submit quarterly and annual compliance reports. The notification and reports enable EPA or the delegated State regulatory authority to determine the best demonstrated technology is installed and properly operated and maintained, and to schedule inspections. The responses to this information collection are mandatory under Clean Air Act section 111 and 40 CFR Part 60, Subpart Ea. The responses are not anticipated to be kept confidential due to the nature of the information collected; however, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR Part 2.

In terms of capital costs, the reporting and recordkeeping cost burden in #14 of the OMB Form 83–1 is stated as zero. First, there are no anticipated capital/startup costs for NSPS Subpart Ea during the startup of a new MWC for the installation of equipment for monitoring and recordkeeping and other related costs. No additional MWCs will be subject to the NSPS Subpart Ea, since all MWCs commencing construction, modification or reconstruction after September 20, 1994 will be subject to the NSPS Subpart Eb.

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. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 8, 1995 (60 FR 63035). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 603 hours per respondent per year. 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 be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Estimated Number of Respondents: 34.

Estimated Number of Responses: 136.

Frequency of Response: 4.

Estimated Total Annual Hour Burden: 20,488 hours.

Estimated Total Annualized Cost Burden: $903,520.80.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1506.07 and OMB Control No. 2060–0210 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: March 11, 1996.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 96–6244 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–5414–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements File March 04, 1996 Through March 08, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960107, Draft EIS, MT, Bighorn Sheep Range and China Basin Salvage Project, Wildlife Habitat Enhancement Activities and Watershed Restoration Activities, Kootenai National Forest, Libby Ranger District, Lincoln County, MT, Due: April 29, 1996, Contact: Leanne Marten (406) 293–6211.

EIS No. 960108, Draft Supplement, FHW, HI, Honoapiilani Highway/FAP Route 30 Improvement, New Information Concerning Construction of Modifications to Honoapiilani Highway from Puamana to Honokowai, COE Permits and NPDES Permit Issuance and Funding, Lahaina District, Maui County, HI, Due: April 29, 1996, Contact: Abraham Wong (808) 541–2700.

EIS No. 960109, Final Supplement, NOA, MA, ME, RI, NH, CT, Northeast Multispecies Groundfish Fishery Management Plan, Amendment 7, Updated Information concerning the Rehabilitation of the Depleted Cod, Haddock and Yellowtail Flounder Stocks, Implementation, Gulf of Maine, Georges Bank, ME, NH, CT, RI and MA, Due: April 15, 1996, Contact: Susan Murphy (508) 281–9315.

EIS No. 960110, Draft EIS, BLM, NV, Bootstrap/Capstone and Tara Open-Pit Gold Mine Project, Construction and Operation, Plan of Operation Approval, Elko and Eureka Counties, NV, Due: April 29, 1996, Contact: Deb McFarlane (702) 735–0200.

EIS No. 960111, Draft EIS, COE, IL, Delta Coal Mine Complex—West Harrisburg Field, Issuance of Permit for Continue Use of the Illinois No. 6 and No. 7 Coal Mines, Marin, Harrisburg and Saline Counties, IL, Due: April 29, 1996, Contact: Michael Turner (502) 582–6015.

EIS No. 960112, Final EIS, USA, UT, Tooele Army Depot Disposal and Reuse of BRAC Parcel, Implementation, Salt Lake, Tooele and Utah Counties, UT, Due: April 15, 1996, Contact: Glen Coffee (334) 690–2729.

EIS No. 960113, Draft EIS, DOE, OR, Hood River Fisheries Project, Construction, Operation and Maintenance; Habitat Improvement and Research Program Development, Funding, Hood River Basin, Hood River County, OR, Due: April 29, 1996, Contact: Nancy Weintraub (503) 230–5373.

EIS No. 960114, Final EIS, BLM, TX, Texas Land and Resource Management Plan (RMP), Implementation, Split Estates Federal Mineral Ownership (FMO), Several Counties, TX, Due: April 30, 1996, Contact: Paul Tanner (405) 794–9624.

EIS No. 960115, Draft EIS, FHW, RI, Rhode Island Northeast Corridor Freight Rail Improvement Project, Major Investment Study, Implementation, from Boston Switch in Central Falls to the Quonset Point/Davisville Industrial Park in North Kingtown, Funding, COE Section 10 and 404 Permits, Providence County, RI, Due: April 29, 1996, Contact: K. Robert Sikora (401) 528–4541.

EIS No. 960116, Legislative Draft, AFS, OR, ID, Wallowa-Whitman National Forest, Wild and Scenic River Study, Eight Rivers for Suitability and Inclusion in the National Wild and Scenic Rivers System, Baker, Union and Umatilla Counties, OR and Adams and Idaho Counties, ID, Due: June 13, 1996, Contact: Kurt Wiedenmann (503) 523–1296.

EIS No. 960117, Draft EIS, FHW, CO, Parker Road (CO–83)/I–225 Interchange Project (FCU–CX–083–1 (49)), Improvement between Peoria Street to Hampden Avenue, Funding, NPDES Permit and COE Section 404 Permit, City Aurora, Arapahoe County, CO, Due: April 29, 1996, Contact: Mitch Kumar (303) 757–9311.

EIS No. 960118, Draft EIS, AFS, WY, Jackson Hole Ski Area Master Development Plan Revision, Implementation, Briger-Teton National Forest, Jackson Ranger District, Teton County, WY, Due: April 29, 1996, Contact: Richard Anderson (307) 739–5558.

EIS No. 960119, Final EIS, NOA, Programmatic EIS—Coastal Nonpoint Pollution Control Program, Implementation, Approval for 29 States and Territories Coastal Nonpoint Program, Due: April 15, 1996, Contact: Clement Lewsey (301) 713–3102 ext. 149.

EIS No. 960120, Draft EIS, GSA, MD, U.S. Food and Drug Administration (FDA) Consolidation of the following: Center for Drug Evaluation and Research (CDER), Center for Devices and Radiological Health (CDRH), Center for Biologies Evaluation and Research (CBER) and Office of Commissioner (OC), Site Selection, White Oak Naval Surface Weapons Center, Montgomery County, MD, Due: May 01, 1996, Contact: Jag Bhargava (202) 708–7248.

EIS No. 960121, Final EIS, USA, CA, Hamilton Army Airfield Disposal and Reuse, Implementation, City of Novato, Marin County, CA, Due: April 15, 1996, Contact: Robert Koenigs (916) 557–6712.

EIS No. 960122, Draft EIS, AFS, CO, Arapaho and Roosevelt National Forests and Pawnee National Grassland, Implementation, Land and Resource Management Plan, Boulder, Clear Creek, Gilpin, Grand, Larimer and Weld Counties, CO, Due: June 14, 1996, Contact: Howard Sargent (970) 498–1201.

Dated: March 12, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–6288 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5414–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 26, 1996 through March 1, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1996 (60 FR 19047).

Draft EISs

ERP No. D–AFS–J67022–MT

Rating EO2, Asarco Rock Creek Copper and Silver Mining Construction and Operation Project, Plan of Operations Approval, Special Use Permit(s), Road Use Permit, Mineral Material Permit, Timber Sale Contract and COE Section 404 Permit Issuance, Kootenai National Forest, Sanders County, MT.

Summary: EPA expressed environmental objections to the proposed action based on the integrity of an unlined impoundment, potential groundwater contamination, lack of information on the acid generating potential of the ore and waste rock, ability for the underground reservoir to contain high volumes of poor quality water and lack of details in the mine closure plan.

ERP No. D–AFS–K61140–CA Rating EC2, Dinkey Allotment Livestock Grazing Strategies, Implementation, Sierra National Forest, Fresno County, CA.

Summary: EPA expressed environmental concerns about adverse impacts from extensive chiselling, gullying, streambank erosion and disturbed meadow/reparian ecosystems which have been caused in part by past grazing pressures and we urged selection of a reduced grazing strategy which will reverse the above adverse impacts and promote recovery of the damaged watersheds. See ''The Forest Service Program for Forest and Rangeland Resources: A Long-Term Strategic Plan''.

ERP No. D–AFS–K65176–CA

Rating EC2, Sequoia National Forest Trail System Plan, Implementation, Amendment to the Sequoia National Forest Land and Resource Management Plan, Fresno, Kern and Tulare Counties, CA.

Summary: EPA expressed environmental concerns over potential water quality, fishery and soil impacts. The DEIS did not provide specific information on existing water quality for eight major watersheds in the area, making it difficult to ascertain specific project impacts. The FEIS should contain more detailed information on how the project will affect each watershed and discuss the applicability of the Clean Water Act's stormwater permit provisions.

ERP No. D–AFS–K65177–00

Rating EC2, North Shore Ecosystem Management Project, Implementation, Lake Tahoe Basin Management Unit, Washoe and Placer County, CA and NV.

Summary: EPA expressed environmental concerns regarding potential impacts to water quality in the Lake Tahoe Basin. EPA requested that the FEIS provide further discussion on the relation between Forest Service ''Thresholds of Concern'' for watersheds and compliance with Water Quality Standards and whether herbicide use would be a part of reforestation actions.

ERP No. D–AFS–K82005–CA

Rating EC2, Placerville Nursery Pest Management Plan, Implementation, Camino, El Dorado County, CA.

Summary: EPA expressed environmental concerns regarding the project's compliance with pesticide and toxicity requirments in the applicable Clean Water Act Basin Plan for the area, and urged the Forest Service to employ methyl bromide and other chemicals at the nursery only after non-chemical control methods are determined to be ineffective in terms of pest management.

ERP No. D–AFS–L61206–OR

Rating LO, Upper Deschutes Wild and Scenic River and State Scenic Waterway, Management Plan, Implementation, Deschutes National Forest, Deschutes County, OR.

Summary: EPA expressed lack of objections to the proposed project.

ERP No. D–BLM–J67019–MT

Rating EO2, Zortman and Landusky Mines Reclamation Plan Modifications and Mine Life Extensions, Approval of Mine Operation, Mine Reclamation and COE Section 404 Permits, Little Rocky Mountains, Phillip County, MT.

Summary: EPA expressed environmental concerns because the Draft EIS discloses that there is no assurance that efforts to restore and protect ground and surface waters will be effective or in place as a condition to mine expansion. EPA recommended that the Final EIS address in greater detail the potential effects to groundwater aquifer underlying the Fort Belnap Indian Reservation and a cost and feasibility analysis of altervatives 3 and 7.

ERP No. D–BLM–K65179–AZ

Rating EC2, Morenci Land Exchange, Implementation, Exchange of Federal Lands for Private Lands, Safford District, Greenlee, Graham, Cochise and Pima Counties, AZ.

Summary: EPA expressed environmental concerns regarding the proposed land exchange. We recommended withdrawing the offered lands from mineral entry and requested additional information in the FEIS on the condition and management plan for the selected and offered lands and on potential impacts of the proposal to air, water resources and reclamation.

ERP No. D–BLM–L61205–OR

Rating LO, Bal'diyaka Interpretive Center Construction and Operation to Present the Natural History of Oregon's Southern Coast; the Cultural Heritage of the Coos, Lower Umpqua and Siuslaw Indians and Local US Coast Guard History, Implementation, Coos Bay District, Gregory Point, Coos County, OR.

Summary: EPA expressed lack of objections to the proposed project.

ERP No. D–DOE–A09824–00

Rating EC2, Programmatic EIS—Waste Management, Managing Treatment, Storage and/or Disposal of Radioactive and Hazardous Waste for Five Types of Waste: Low-Level Radioactive; Low-Level Mixed; Transuranic Radioactive; High-Level Radioactive and Hazardous Waste, Sites Selection Around the United States.

Summary: EPA requested additional information to strenghten the final EIS and provide more clarity to the public.

ERP No. D–NPS–G65063–NM

Rating LO, Pecos National Historical General Management Plan and Development Concept Plan, Implementation, San Miguel and Santa Fe Counties, NM.

Summary: EPA had no objections to the preferred alternative.

ERP No. D–NPS–G65065–NM

Rating LO, Carlsbad Caverns National Park General Management Plan, Implementation, Eddy County, NM.

Summary: EPA expressed lack of ojections to the preferred alternative.

ERP No. D–NPS–L65258–ID

Rating LO, Hagerman Fossil Beds National Monument, General Management Plan, Implementation, Twin Falls and Gooding County, ID.

Summary: EPA expressed lack of objections.

ERP No. D–USN–K11066–CA

Rating EC2, Camp Pendleton Marine Corps Air Stations (MCAS) Tustin and EL Toro Marine Corps Base (MCB) Realignment, Implementation, COE Section 404 Permit, San Diego County, CA.

Summary: EPA expressed environmental concerns and requested additional information on cumulative impacts to the Santa Margarita River flood zone and watershed, wetlands and biological resources.

Final EISs

ERP No. F–AFS–G65059–NM

Santa Fe Ski Area Master Development Plan, Upgrading and Expansion, Special-Use-Permit, Santa Fe National Forest, Espanola Ranger District, Santa Fe County, NM.

Summary: EPA had no objections to the preferred alternative.

ERP No. F–UAF–E10007–GA

F–15 Fighter Aircraft Conversion at Dobbins Air Force Base (AFB), Marietta, GA to B–1B Bomber Aircraft at Robins AFB, Warner Robins, GA and Training Airspace Modifactions Servicing the Savannah Combat Readiness Training Center (CRTC) Area, GA.

Summary: EPA expressed lack of objection to this project.

ERP No. F–USN–K11050–HI

Bellows Air Force Station Land Use and Development Plan, Implementation, Waimanalo, Honolulu County, HI.

Summary: EPA expressed lack of objection to this project.

Regulations

ERP No. R–BIA–A99206–00

25 CFR Chapter V and Part 900—Indian Health Service: Indian Self-Determination and Education Assistance Act Amendments; Proposed Rule.

Summary: EPA suggested that the methodologies for establishing the carrying capacities of range units specifically include measures that ensure compliance with applicable sections of federal environmental law.

ERP No. R–DOI–A60117–00

25 CFR Part 161—Navajo Partitioned Land Grazing Regulations—Proposed Rule.

Summary: EPA suggested that the proposed regulation indicate that the Bureau of Indian Affairs and Indian Health Service will exercise independent review of information submitted during environmental reviews and that this regulation describe how environmental reviews will be conducted for land acquisitions under Indian Self-Determination grants and contracts.

Dated: March 12, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–6289 Filed 3-14–96; 8:45 am]

BILLING CODE 6560-50-P

[FRL–5442–6]

Common Sense Initiative Council, Metal Finishing Sector Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Open Meeting of the Public Advisory Common Sense Initiative Council, Metal Finishing Sector Subcommittee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is given that, pending resolution of EPA's FY 1996 appropriation, the Metal Finishing Sector Subcommittee of the Common Sense Initiative Council will meet on Tuesday and Wednesday, April 9 and 10, 1996, in Arlington, Virginia. The Subcommittee will continue discussions about projects in various stages of implementation. Limited time will be provided for members of the public to make oral comments at the meeting.

OPEN MEETING NOTICE: Notice is hereby given that the Environmental Protection Agency, pending resolution of its FY 1996 appropriation, is holding an open meeting of the Metal Finishing Sector Subcommittee on Tuesday and Wednesday, April 9 and 10, 1996, and will include breakout sessions for the Subcommittee workgroups. The meeting will begin each day at approximately 9:00 a.m. EST and run until 4:00 p.m., EST. The meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202, telephone number 703–920–3230. Seating will be available on a first come, first served basis. Limited time will be provided for public comment.

The Metal Finishing Sector Subcommittee anticipates having discussions, led by the appropriate workgroups, on at least three topics—strategic goals for the Metal Finishing Sector; access to capital for environmental improvements and remediation; and broader compliance and enforcement policy. An agenda will be available later this month.

INSPECTION OF SUBCOMMITTEE DOCUMENTS: Documents relating to the above topics will be publicly available at the meeting. Thereafter, these documents and the minutes of the meeting will be available for public inspection in room 2821M of EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Katherine Brown at: brown.katherine@epamail.gov.

FOR FURTHER INFORMATION CONTACT: For more information about and verification of this meeting, please call Bob Benson at 202–260–8668 in Washington, D.C.

Dated: March 12, 1996.

Robert Benson,

Designated Federal Officer.

[FR Doc. 96–6238 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

[OPP–180998; FRL 5354–4]

Pyriproxyfen and Buprofezin; Receipt of Application for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Arizona Department of Agriculture (hereafter referred to as the ''Applicant'' to use the insect growth regulators pyriproxyfen (CAS 95737–68–1) and buprofezin (CAS 69327–76–0) to treat up to 350,000 acres of cotton to control the sweet potato, or silverleaf whitefly *Bemesia species*. In the case of pyriproxyfen, the Applicant proposes the first food use of an active ingredient. Buprofezin is an unregistered material, and its proposed use is thus use of a ''new'' chemical. Therefore, 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 April 1, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180998,'' 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–180998]. 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 Applicant has requested the Administrator to issue specific exemptions for the use of pyriproxyfen and buprofezin on cotton to control the sweet potato, or silverleaf whitefly (SLW). Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that a new strain or possibly a new species, of whitefly, often referred to as the strain B of sweet potato whitefly, or silverleaf whitefly (SLW), was initially found in Arizona in 1988. Since that time, it has steadily spread to new host plants and grown in population size each summer and fall. The SLW causes damage by feeding, and also through the production of honeydew, which encourages growth of sooty mold and other fungi. When SLWs become numerous as they did in many areas of the state in the past several years, their direct feeding lowers the yield. The SLW has also been implicated as a vector of virus. The Applicant claims that adequate control of the SLW is not being achieved with currently registered products and alternative cultural practices. The Applicant indicates that one application of either one or the other of the requested chemicals would not provide adequate control throughout the season, and since application of either would be limited to one, is requesting the use of both materials. The Applicant indicates that without adequate control of the SLW in cotton, significant economic losses will be suffered.

The Applicant proposes to apply pyriproxyfen at a rate of 0.054 lb. active ingredient (a.i.) per acre with a maximum of one application per crop season on a total of 350,000 acres of cotton. The Applicant proposes to apply buprofezin at a rate of 0.35 lb. a.i. per acre with a maximum of one application per crop season on a total of 350,000 acres of cotton. Therefore, use under these exemptions could potentially amount to a maximum total of 18,900 lbs. of pyriproxifen and 122,500 lbs. of buprofezin. This is the first time for an exemption request for either of these uses.

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 in the Federal Register for an application for a specific exemption proposing the first food use of an active ingredient, or for use of a new (unregistered) chemical. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180998] (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 Arizona Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 6, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–6252 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181000; FRL 5355–3]

Emamectin Benzoate; Receipt of Application for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Hawaii Department of Agriculture (hereafter referred to as the ''Applicant'') to use the pesticide emamectin benzoate (CAS 137512–74–4) (formulated as ''Proclaim

5SG'') to treat up to 1,000 acres of head and Chinese (Napa) cabbage, to control the diamondback moth. The Applicant proposes the use of a ''new'' chemical (an active ingredient not currently found in any registered product). Therefore, 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 April 1, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181000,'' 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–181000]. 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 Applicant has requested the Administrator to issue a specific exemption for the use of emamectin benzoate on head and Chinese (Napa) cabbage to control the diamondback moth. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that the diamondback moth has become resistant to registered materials, which were formerly effective at providing control. The Applicant claims that the larva of this species has caused significant yield reductions in cabbage through its feeding activities, when it was not adequately controlled through use of registered materials. The applicant states that significant economic losses will be suffered by cabbage growers without the use of emamectin benzoate, since the registered alternatives do not provide acceptable levels of control.

The Applicant proposes to apply emamectin benzoate at a rate of 0.0075 to 0.015 lb. active ingredient (a.i.) per acre with six to twelve applications per crop season, but no more than 0.09 lb. a.i. applied per acre per crop season. The proposed use is for up to 1,000 acres of head and Chinese (Napa) Cabbage. Therefore, use under this exemption could potentially amount to a maximum total of 90 lbs. of active ingredient, emamectin benzoate. This is the first time an exemption request for this use has been requested.

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 in the Federal Register for an application for a specific exemption proposing the use of a new (unregistered) chemical. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–181000] (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 Hawaii Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 8, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–6426 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181002; FRL 5355–8]

Propazine; 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 Kansas Department of Agriculture (hereafter referred to as the ''Applicant'') to use the pesticide propazine (CAS 139–40–2) to treat up to 500,000 acres of sorghum

to control pigweed. The Applicant proposes the use of a new (unregistered) chemical; additionally, an emergency exemption for this use has been requested for the previous 3 years, and 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 April 1, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181002,'' 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–181002]. 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: 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 Applicant has requested the Administrator to issue a specific exemption for the use of propazine or sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicant claims that this has left sorghum growers in Kansas with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. Until 1993–4, the first season an exemption was requested, growers were using existing stocks of propazine. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical. The Applicant claims that significant economic losses will occur without the availability of propazine.

The Applicant proposes to apply propazine at a maximum rate of 1.2 lbs. active ingredient (a.i.) [(2.4 pts. of product)] per acre, by ground on air, with a maximum of one application per crop growing season. Therefore, use under this exemption could potentially amount to a maximum total of 600,000 lbs. of a.i., (150,000 gal. of product) in Kansas. This is the third year that Kansas has applied for this use of propazine on sorghum, and the fourth year that this use has been requested under section 18 of FIFRA. Kansas was issued an exemption for this use for last growing season.

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 a new chemical (i.e., an active ingredient not contained in any currently registered pesticide), of if an emergency exemption for a use 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. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–181002] (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 Kansas Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 11, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–6427 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–60–M

[OPP–300419; FRL–5355–2]

Identification of Pesticide Tolerances Under Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this notice EPA identifies various pesticide food additive regulations under a court-approved settlement agreement. Today's notice does not affect the regulatory status of any raw or processed food tolerance.

FOR FURTHER INFORMATION CONTACT: By mail: Jean M. Frane, Policy and Special Projects Staff (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. Office location: Room 1113, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone: 703–305-5944; e-mail address: frane.jean@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 9, 1995, in a court-approved settlement agreement, EPA agreed to take certain actions related to the Delaney clause of the Federal Food, Drug and Cosmetic Act (FFDCA). The Delaney clause prohibits the establishment or maintenance of any food additive regulation (commonly referred to as a tolerance) for a pesticide that is found to induce cancer.

One of the actions agreed to by EPA is to review, within 5 years of the date of approval of the settlement, toxicological and food processing studies submitted as of the date of settlement, to determine the following:

1. Whether any such toxicological studies show that any pesticides not included in Appendix III of the settlement ''induce cancer'' within the meaning of the Delaney clause. Additionally, EPA agreed to identify any existing or needed processed food tolerances for such pesticides found to induce cancer, and

2. Whether any such food processing studies show that any pesticides included in Appendix III need processed food tolerances.

EPA agreed to issue a notice in the Federal Register, annually for 5 years, listing any pesticide food additive tolerances and underlying raw food tolerances identified in its review of the toxicological and processing studies. Today's notice is the first such annual notice.

II. Listing of Pesticide Tolerances

A. Pesticides Newly Identified as ''Inducing Cancer''

Prior to and since the settlement agreement, EPA has issued a series of proposed revocations of processed food tolerances, in which the Agency has made determinations that the pesticide induces cancer. Each of these pesticides is currently identified in Appendix III of the settlement, and thus are not considered to be newly identified for the purposes of this notice.

EPA has made no determinations that any pesticide not currently identified in Appendix III of the settlement ''induces cancer'' within the meaning of the Delaney clause.

B. Pesticides Newly Identified as Having or Needing Food Additive Tolerances

EPA has determined, based upon its review of processing studies, that the pesticides listed in the following table have raw food tolerances and need processed food tolerances. This listing is merely a reporting of determinations made at various times over the past year. Such determinations were made in accordance with policies in existence at the time of the review. In the last year, EPA has revised many of its policies that determine when a processed food tolerance is needed. Some of today's determinations on the need for a processed food or feed tolerance do not reflect consideration of EPA's revised policies. Before taking any regulatory action with respect to the raw or processed tolerances in today's notice, EPA will evaluate the need for a food/feed additive tolerance in accordance with its new policies.

Pesticide	Raw crop tolerance (CFR cite)	Processed Food/Feed Form
Iprodione	Fresh prune (180.399)	Dried prune
Metolachlor	Potatoes (180.368)	Processed potato waste
Permethrin	Apples (180.378)	Wet apple pomace
Phosmet	Grapes (180.261)	Raisin waste
.....		Pomace (wet and dry)
Thiophanate-methyl.	Apples (180.371)	Wet apple pomace

Dated: March 6, 1996.

Penelope A. Fenner-Crisp,

Acting Director, Office of Pesticide Programs.

[FR Doc. 96–6158 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5442–2]

Notice of Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for public comment; opportunity for public meeting.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given of a proposed administrative *de minimis* settlement concerning the Novak Sanitary Landfill Superfund Site in Lehigh County, Pennsylvania, with the parties listed below. The settlement requires the settling parties to pay a total of $300,920.38 to the Hazardous Substances Superfund. The settlement includes an EPA covenant not to sue the settling parties pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), provides EPA with authority to enter into *de minimis* settlements.

For thirty days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will reconsider the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Parkland Library located at 4422 Walbert Avenue, Allentown, PA and at the USEPA Region III, 841 Chestnut Street, Philadelphia, PA 19107. Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

DATES: Comments must be provided on or before April 15, 1996.

ADDRESSES: A copy of the proposed settlement may be obtained from Joan Martin-Banks (3HWll) in EPA's Region III Office, 841 Chestnut Building, Philadelphia, PA 19107, (telephone: 215/597–1192). Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, and should refer to: In *Re Novak Sanitary Landfill Superfund Site,* Lehigh County, Pennsylvania, U.S. EPA Docket No. III–95–57–DC.

FOR FURTHER INFORMATION CONTACT: Wendy Miller (Mail Code 3RC32) (215) 597–3230, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

SUPPLEMENTARY INFORMATION: Notice of *De Minimis* Settlement: In accordance with Section 122(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement concerning the Novak Sanitary Landfill Superfund Site, in Lehigh County, Pa. Notice of an opportunity for a public meeting pursuant to Section 7003 of the Resource Conservation and Recovery Act (''RCRA'') is also hereby given. The agreement was proposed by EPA Region III. Subject to review by the public pursuant to this Notice, the agreement has met with the approval of the Attorney General or her designee, United States Department of Justice.

Below are listed the parties who have executed binding certifications of their consent to participate in this settlement:

1. Acoustical Spray Insulators, Inc.
2. American National Can Company
3. Ecolab Inc.
4. Howmet Cercast (U.S.A., Inc.)
5. International Multifoods Corporation
6. Mancor PA, Inc.
7. The Asbury Graphite Mills, Inc.

These seven parties collectively have agreed to pay $300.920.38, subject to the contingency that EPA may elect not to complete the settlement if comments received from the public during this comment period or at a public meeting, if one is requested, disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Money collected from *de minimis* parties will be used for past response costs incurred at or in connection with the Site. The amounts to be paid by the *de minimis* parties include a premium to cover the risk that unknown conditions are discovered or information previously unknown to EPA is received.

EPA is entering into this agreement under the authority of Sections 122(g) and 107 of CERCLA and Section 7003 of RCRA. Section 122(g) authorizes settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund Sites without incurring substantial transaction costs. Each of the *de minimis* parties is responsible for less than one percent of the volume of waste that may have contained hazardous substance disposed of at the Site. EPA issued a draft settlement proposal on May 10, 1995 and agreed to a thirty day negotiation period. On July 31, 1995, EPA issued a final settlement proposal embodied in the Administrative Order on Consent which included several modifications made in response to comments by *de minimis* parties in letters to EPA and during negotiations with the Agency. The proposed settlement reflects and was agreed upon based on conditions known to parties on or about July 31, 1994. Six of the *de minimis* settling parties will be required to pay their volumetric share of the Government's past response costs, estimated costs incurred by the potentially responsible parties that performed the Remedial Investigation/Feasibility Study (''RI/FS'') for the Site, and the estimated future response costs at the Site (excluding any federal claims for natural resource damages or any State claims), plus the premium amount. One *de minimis* party, The Asbury Graphite Mills, Inc., is required to pay its volumetric share of the Government's past response costs and the estimated future response costs at the Site (excluding any federal claims for natural resources damages or any State claims), plus the premium amount. The Asbury Graphite Mills, Inc. is not required to pay any amount toward the estimated costs of the RI/FS because it was among the parties that agreed to perform the RI/FS and it has certified that it paid more than its volumetric share toward that performance.

Stanley L. Laskowski,

Regional Administrator, Region III.

[FR Doc. 96–6246 Filed 3–14–96; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commission announces that it intends to submit to the Office of Management and Budget a request to extend without change the existing collection of information listed below. The Commission is seeking public comments on the proposed extension.

DATES: Written comments on this notice must be submitted on or before May 14, 1996.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street NW., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile (''FAX'') machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4078 (voice) or (202) 663–4399 (TDD). (These are not toll-free numbers.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street NW., Washington, DC, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Margaret Ulmer Holmes, Office of Management, Room 2204, 1801 L Street NW., Washington, DC 20507, (202) 663–4279 (voice) or (202) 663–7114 (TDD).

SUPPLEMENTARY INFORMATION:

Collection Title: Recordkeeping Requirements of Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. Part 1607.

Form Number: None.

Frequency of Report: None required.

Type of Respondent: Businesses or other institutions, state or local governments, and farms.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: Any employer, labor organization, or employment agency covered by the federal equal employment opportunity laws.

Responses: 666,000.

Reporting Hours: 1,450,000.

Number of Forms: None.

Abstract: The records required to be maintained by 29 C.F.R. 1607.4 and

1607.15 are used by respondents to assure that they are complying with Title VII; by the Commission in investigating, conciliating, and litigating charges of employment discrimination; and by complainants in establishing violations of federal equal employment opportunity laws.

Burden Statement: There are no reporting requirements associated with UGESP. Thus the only paperwork burden derives from the required recordkeeping. There are a total of 666,000 employers who have 15 or more employees and that are, therefore, subject to the recordkeeping requirement. Prior to the imposition of the UGESP recordkeeping requirement, the Commission proposed to conduct a practical utility survey to obtain estimates of burden hours. The intended survey was not approved by OMB, however, and the Commission relied instead on data obtained from the Business Roundtable study on ''Cost of Government Regulation'' conducted by the Arthur Anderson Company.

In its initial estimate of recordkeeping burden the Commission relied on data from that study to derive the estimate of 1.91 million hours. In a subsequent submission to OMB for clearance of the UGESP collection, the Commission made an adjustment to reflect the increase in the incidence of computerized recordkeeping that had resulted in a reduction of total burden hours of approximately 300,000, and had brought the total burden down to 1.6 million hours.

In the calculation of the initial burden of UGESP compliance, the estimated number of employees covered by the guidelines was 71.1 million. Average cost per employee was taken to be $1.79. Since most of this cost, however, was for employers' administrative functions and represented the time spent in reviewing their selection processes for 'adverse impact' and in reviewing and validating their testing procedures, the actual recordkeeping function was estimated to be in the range of 10 to 15 percent of the total per-employee cost, or between $.179 and $.2685 per employee. The Commission used these per-employee costs, even though it believed that they were an over-estimate. In the initial estimate the Commission used the higher end of the range.

The Commission now believes that a better estimate is the midpoint of the range or $.22 per employee. The number of employees also has grown by 15 million since the initial estimate, so that there now are 86 million subject to UGESP. In addition, from the private employer survey the Commission has been conducting for the past 30 years (the EEO–1), it is aware that 29.7 percent of the private employers file their employment reports on magnetic tapes, on diskettes, or on computer printouts. Thus, at a minimum, that proportion of employers has computerized recordkeeping. From the same survey the Commission also has learned that when records are computerized, the burden hours for reporting, and thus for recordkeeping, are about one-fifth of the burden hours associated with non-computerized records. Therefore, the Commission's current estimate of recordkeeping burden hours is as follows:

Computerized recordkeepers—(.29)×86 mil×($.044)=	$1,097,360
All other recordkeepers—(.71)×86 mil×($.22)=	$13,433,200
Total recordkeeping cost=	$14,530,560

Total Burden Hours are then computed by dividing the total cost of recordkeeping by $10, the hourly rate of staff recordkeepers. The total new estimate of burden hours associated with the UGESP recordkeeping then is 1.45 million hours. Assumptions made in deriving the estimate are as follows:

Cost per employee for recordkeeping is $.22*

Cost per employee for computerized records is $.044*

Hourly rate of pay for recordkeeping staff is $10.00**

*Both of these are derived from a private employer study.

**To the extent that this is an under-estimate, the reporting burden is over-estimated.

Dated: March 11, 1996.

For the Commission.

Maria Borrero,

Executive Director.

[FR Doc. 96–6170 Filed 3–14–96; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission; Comments Requested

March 8, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions 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.

DATES: Written comments should be submitted on or before May 14, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0564.

Title: 47 CFR 76.924 Cost accounting and cost allocation requirements.

Type of Review: Revision to an existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 13,500.

Total Annual Burden: 72,000 hours.

Needs and Uses: Cost accounting and cost allocation requirements standardize the methodology in which cable operators report financial data. The Commission's system of cable rate regulation imposes a price cap on cable service rates with certain categories of costs defined as external to the cap. The cost accounting and cost allocation requirements are necessary in order to assure that costs that are intended to receive external treatment are in fact accorded such treatment. Cost accounting and cost allocation requirements are used by cable operators wishing to justify rates higher than their capped levels via a cost-of-service filing; and the requirements are necessary to permit accurate identification of such costs that will justify rates above the cap. On December 15, 1995, the Commission adopted a Second Report and Order, First Report

on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 95–502, MM Docket 93–215 and CS Docket 94–28, in which requirements for cable operators for allocating to service cost categories, as set forth in 76.924(e), were modified and adopted on a permanent basis. 76.924(e) now permits cable operators to allocate service costs to three service cost categories, instead of up to seven service cost categories. The third service cost category will simply serve as an ''all other'' service costs category that captures what operators previously had to allocate to multiple categories.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6202 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority; Comments Requested

March 7, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions 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. The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before May 14, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0441.

Title: Section 90.621(b)(4) Selection and assignment of frequency.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit; State or Local Governments; Non-profit institutions.

Number of Respondents: 33.

Estimated Time Per Response: 1.5 hours per respondent; however the Commission estimates approximately 75% of the respondents will contract out the burden of responding. It will take these respondents approximately 30 minutes to obtain these services.

Total Annual Burden: 25 hours.

Needs and Uses: Applicants wishing to locate co-channel systems less than 70 miles from an existing system operating on the same channel may do so upon specific request. If the request falls under a Table provided in the rules, certain information about the co-channel station is required. In this instance no waiver of the short spacing rule is required. If the request is for distances less than those prescribed in the table, a waiver of the short spacing rule is required. The Commission used the information to determine whether to grant licenses to applicants whose systems do not satisfy mileage separation requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6203 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission; Comments Requested

March 7, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions 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.

DATES: Written comments should be submitted on or before May 14, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3060–0110.

Title: Application for Renewal of License for AM, FM, TV Translator or LPTV Station (FCC Form 303-S).

Form Number: FCC 303–S.

Respondents: Business or other for-profit.

Type of Review: Revision of an existing collection.

Number of Respondents: 4658.

Estimated time per response: 2 - 5.5 hours.

Total annual burden: 6230.

Needs and Uses: On February 8, 1996, President Clinton signed into law the Telecommunications Act of 1996. Section 204 of this Act directs the Commission to collect new information from commercial and noncommercial television station licensees filing their renewal applications after May 1, 1995. These renewal applicants must submit an Exhibit summarizing the written comments and suggestions received from the public that ''comment on the applicant's programming, if any, and that are characterized by the commentor as constituting violent programming.'' Until the FCC 303–S is revised, the Commission will use a supplement to solicit the required information. FCC Form 303-S is used in applying for renewal of license for a commercial or noncommercial AM, FM or TV broadcast station and FM translator, TV

translator or Low Power TV broadcast stations. It can also be used in seeking the joint renewal of licenses for an FM or TV translator station and its co-owned primary FM, TV or LPTV station. The data is used by FCC staff to assure that the necessary reports connected with the renewal application have been filed and that licensee continues to meet basic statutory requirements to remain a licensee of a broadcast station. The data collected with respect to violent programming will be used by the Commission in determining what, if any, changes in the Commission's policies and regulations are required.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6204 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–F

[Report No. 2125]

Petition for Reconsideration of Actions in Rulemaking Proceedings

March 11, 1996.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed April 1, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service (PR Docket No. 89–552)

Implementation of Sections 3(n) and 332 of the Commission Act (GN Docket No. 93–252)

Number of Petitions Filed: 4

Subject: Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service (PR Docket No. 89–552)

Number of Petition Filed: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6200 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Tuesday, March 12, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion on Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Joseph H. Neely (Appointive), Chairman Ricki Helfer, and Director Eugene A. Ludwig (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: March 12, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–6480 Filed 3–13–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

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

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 29, 1996.

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

1. Jerry N. Clanton, Louisville, Kentucky; to acquire an additional 8.09 percent, for a total of 31.32 percent, of the voting shares of Magnolia Bancshares, Inc., Hodgenville, Kentucky, and thereby indirectly acquire Bank of Magnolia, Magnolia, Kentucky.

Board of Governors of the Federal Reserve System, March 11, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–6229 Filed 3–14–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by Merger of Bank Holding Companies, and Change in Bank Control Notices; Correction

This notice corrects a notice (FR Doc. 96-5175) published on page 8936 of the issue for Wednesday, March 6, 1996.

Under the Federal Reserve Bank of Dallas heading, the entry for Medina Community Bancshares, Inc., is revised to read as follows:

1. Medina Community Bancshares, Inc., Hondo, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Medina Community Bancshares of Delaware, Inc., Wilmington, Delaware, and thereby indirectly acquire Community National Bank, Hondo, Texas.

In addition, Medina Community Bancshares of Delware, Inc., Wilmington, Delaware, also has applied to become a bank holding company by acquiring Community National Bank, Hondo, Texas.

Comments on this application must be received by March 29, 1996.

Board of Governors of the Federal Reserve System, March 11, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–6228 Filed 3–14–96; 8:45 am]

BILLING CODE 6210–01–F

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 April 8, 1996.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Carnegie Bancorp, Princeton, New Jersey; to merge with Regent Bancshares Corp., Philadelphia, Pennsylvania, and thereby indirectly acquire Regent National Bank, Philadelphia, Pennsylvania.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Tri-State 1st Bank, Inc., East Liverpool, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of 1st National Community Bank, East Liverpool, Ohio.

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

1. Main Street Bancorp, Inc., Princeville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Princeville State Bank, Princeville, Illinois.

Board of Governors of the Federal Reserve System, March 11, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–6230 Filed 3–14–96; 8:45 am]

BILLING CODE 6210–01–F

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 C.F.R. 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)

OMB Desk Officer—Milo Sunderhauf—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7340)

I. Final approval under OMB delegated authority of the implementation of the following report:

Report title: Federal Reserve Check Fraud Survey.

Agency form number: FR 3080.

OMB Control number: 7100–0279.

Frequency: One-time.

Reporters: Commercial banks, savings associations, and credit unions.

Annual reporting hours: 14,976.

Estimated average hours per response: 9.

Number of respondents: 1,664.

Small businesses are not affected.

General description of report: This information collection is voluntary [Publ. L. 103–325, Title III, section 333] and is confidential [5 U.S.C. section 552(b)(4)].

Abstract: The Board has approved conducting a one-time, voluntary check-fraud survey in March 1996. The responses to the survey will be used by the Board in fulfilling the Congressional mandate to determine whether there is a pattern of significant increases in losses related to check fraud at depository institutions attributable to the provisions of the Expedited Funds Availability Act (EFAA); to consider whether an extension by one day of the period between the deposit of a local check and the availability of funds for withdrawal would be effective in reducing the volume of losses related to check fraud; and to make recommendations for legislative actions.

II. Justification

The 1994 Community Development Banking Act states that the Board shall ''conduct a study on the advisability of extending the 1-business-day period specified in section 603(b)(1) of the Expedited Funds Availability Act (EFAA), regarding availability of funds deposited by local checks, to 2 business days.'' The report is to be submitted to the Congress by September 23, 1996. The Congress further directed the Board to:

- Consider whether there is a pattern of significant increases in losses related to check fraud at depository institutions attributable to the provisions of the EFAA;
- Consider whether an extension by one day of the period between the deposit of a local check and the availability of funds for withdrawal would be effective in reducing the volume of losses related to check fraud; and
- Make recommendations for legislative action.

On December 20, 1995, the Board requested public comment on a proposed check-fraud survey. The survey is intended to obtain data on the number of cases of check fraud and the amount of losses incurred by depository institutions attributed to check fraud.

III. Analysis of Comments

The Board received 45 comment letters on the proposed survey. The following table identifies the number of commenters by type of organization:

Commercial Banking Organizations [1]	28
Credit Unions	8

Savings Banks	2
Federal Reserve Banks	2
Clearing Houses	1
Trade Associations	1
Other [2]	3
Total Commenters	45

[1] Banks, bank holding companies, and operating subsidiaries of banks or bank holding companies.

[2] Law firms and consumer research groups.

Thirty-three commenters supported the Board's conducting the check-fraud survey. Seven of those commenters also indicated that the EFAA availability schedules should be lengthened. Eight commenters did not address whether the Board should conduct the check fraud survey. Five of those commenters, however, supported an extension of the EFAA schedules, while three commenters indicated that no changes should be made to the EFAA. Two commenters questioned the methodology of the survey and indicated that they do not support any changes to the EFAA. Two commenters stated that the survey should not be conducted because they experienced no losses related to check fraud or the EFAA schedules.

Five commenters addressed the issue of the estimated burden to depository institutions of completing the survey document. Three commenters indicated that the estimated burden was reasonable. Two of the commenters, however, stated that the actual burden to DIs would be greater than estimated because obtaining the requested information would require a manual review of records. The Board recognizes that the burden for each survey respondent will vary based on an institution's recordkeeping practices and experience with check fraud, but continues to believe that its estimate of an average of nine hours per respondent is reasonable.

Two commenters suggested that the survey should be conducted prospectively. A prospective approach would allow depository institutions to collect actual data in the format the Board requires, thus improving the accuracy and the response rate. The Board considered this option but rejected it because a prospective survey would significantly increase the recordkeeping burden for depository institutions and would not likely improve the response rate. In addition, because the Board must report to the Congress in September 1996, there is not sufficient time to permit DIs to make the necessary programming changes to their data reporting systems, collect the data, and provide it to the Board in time to meet the Congressionally mandated schedule.

Six commenters suggested that additional definitions be added to the survey and that certain language be clarified. Several of the suggested clarifications and definitions were made to the survey document. For example, definitions were added for the number of cases of check fraud and the dollar amount of losses. Several commenters also asked that the definition of ''organized and professional efforts'' in check fraud be clarified. Because of ambiguity of this question and the difficulty in determining a clear definition, the question has been deleted from the survey.

Six commenters suggested that additional detail be added to some questions or that some categories of checks be expanded. In response to these comments, the Board expanded the scope of six questions. Questions were expanded to address large-dollar return notifications and their effectiveness in preventing losses; to obtain information on the number of checks returned from the paying bank; to address DIs' interest in modifying Regulation CC for new accounts; and to expand the categories of fraudulent checks.

Two commenters raised questions about the survey methodology. These commenters postulated that the survey, as proposed, would produce biased results because participation is voluntary; depository institutions have the option of providing estimates; and depository institutions with less than $1 million in transaction accounts are excluded.

The Board believes that the survey methodology is sound. The survey sample is based on a stratified random sample of 5,200 commercial banks, savings institutions, and credit unions, drawn to achieve a 95 percent confidence interval for the results, based on an expected overall response rate of 32 percent. A minimum of $1 million in transaction accounts was established to reduce the burden on smaller institutions. In addition, while the Board would prefer that respondents to the survey provide data on actual losses, the Board understands that it is unrealistic to expect all institutions to collect the required data in the format requested because of the differences in how DIs collect data concerning check-fraud losses. Therefore, to ensure that a significant number of DIs will be able to respond to the survey, the survey allows for estimates. Statistical analyses and follow-up with non-respondents will be used to test for potential bias in the responses. For example, an institution may not respond to the survey because it does not experience check-fraud losses or because the data are unavailable in the requested format. Follow-up with the non-respondents will provide further information about the reasons, and where appropriate, such information will be integrated into the analyses.

One commenter also questioned the content of the questionnaire. The commenter indicated that the survey questions appeared to be biased ''toward obtaining the results that check fraud volume, losses and costs (1) are enormous, (2) are due to the check hold law, and (3) can be reduced by lengthening the check-hold period.'' The Board believes that the questions in the survey will provide the information needed to determine the magnitude of check-fraud losses and whether lengthening the check hold period would reduce these losses. At this time, the Board has no preconceived notions about the outcome of the survey results. The costs and benefits of any recommended changes to regulations will be carefully reviewed.

Several commenters addressed issues other than the survey. These issues included arguments both for and against extending the EFAA availability schedules; discussion of an institution's experiences with check fraud; discussion of check-fraud prevention methods other than modifying the EFAA; and suggestions on how the Board should evaluate the results. The Board will take these additional comments into consideration when developing legislative recommendations.

In addition to the above comments, the Board received seven completed draft survey forms, indicating a good interest in the survey.

The survey questionnaire was distributed following Board approval.

Board of Governors of the Federal Reserve System, March 11, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–6188 Filed 3–14–96; 8:45 am]

BILLING CODE 6210–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 10:45 a.m., Wednesday, March 20, 1996, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street

entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–6384 Filed 3–13–96; 11:02 am]

BILLING CODE 6210–1–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, March 20, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to simplify, clarify, and update Regulation E (Electronic Fund Transfers) (proposed earlier for public comment; Docket No. R–0830).
2. Publication for comment of proposed amendments to Regulation E (Electronic Fund Transfers) concerning stored-value cards, electronic communications, and error resolution.
3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–6385 Filed 3–13–96; 11:02 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 619–1053.

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.

1. JOBS Evaluation: Five Year Follow-up—New—As a part of the on-going JOBS program evaluation, the Office of the Assistant Secretary for Planning and Evaluation is planning a Five-year Recipient Survey and a Child School Progress Survey. This information will be combined with other data sources in the process of evaluating the JOBS program.—Respondents: individuals or households—Burden Information for Recipient Survey—Respondents: 4,500; Average Burden per Response: 1 hour; Total Burden for Recipient Survey: 4,500 hours—Burden Information for Child School Progress Survey—Respondents: 2,225; Average Burden per Response: 15 minutes; Total Burden for Child School Progress Survey: 563 hours—Total Burden: 5,063 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 530H, Humphrey Building, 200 Independence Avenue, S.W., Washington, DC, 20201. Written comments should be received within 60 days of this notice.

Dated: March 7, 1996.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 96–6168 Filed 3–14–96; 8:45 am]

BILLING CODE 4150–04–M

Agency for Toxic Substances and Disease Registry

Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following committee meeting.

Name: Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry (BSC, ATSDR).

Times and Dates:

1 p.m.–5 p.m., April 16, 1996.
8 a.m.–3:15 p.m., April 17, 1996.

Place: The Agency for Toxic Substances and Disease Registry, Training Room, Building 35, 35 Executive Park Drive, NE, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of the science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize.

Matters To Be Discussed: Agenda items will include an update on Superfund reauthorization and will also focus on other issues of concern to ATSDR, including the ATSDR Minority Health and Environmental Justice Program, Mississippi Delta Project (Health and Environment), Assessing Demographic Parameters at National Priorities List (NPL) Sites, Howard Emergency Medicine Rotation Program, Hispanic Internship Program, Tribal Cooperative Agreement Program, Head Start Environmental Health Program, Risk Communication Project (Sheboygan Harbor and River), Enhancing Community Involvement (ATSDR Cooperative Agreements), Work Group on Health Studies Update, ATSDR's Children's Health Initiative, Laboratory Methods to Measure Contaminants in Biological Media, and Significant Human Exposure Levels Update.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

FOR FURTHER INFORMATION CONTACT: Charles Xintaras, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600

Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708.

Dated: March 11, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–6191 Filed 3–14–96; 8:45 am]

BILLING CODE 4163–70–M

Food and Drug Administration

[Docket No. 96N–0075]

Hance Brothers and White Co., et al.; Proposal to Withdraw Approval of 17 Abbreviated Applications; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on the agency's proposal to withdraw approval of 3 abbreviated antibiotic applications (AADA's) and 14 abbreviated new drug applications (ANDA's). The basis for the proposal is that the sponsors have repeatedly failed to file required annual reports for these applications.

DATES: Written requests for a hearing are due by April 15, 1996; data and information in support of the hearing request are due by May 14, 1996.

ADDRESSES: Requests for a hearing, supporting data, and other comments should be identified with Docket No. 96N–0075 and submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new drugs or antibiotic drugs for human use are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 314.81 (21 CFR 314.81). The holders of the AADA's and ANDA's listed in the table below have failed to submit the required annual reports, and have not responded to the agency's requests by certified mail for submission of the reports.

Application no.	Drug	Applicant
AADA	Neomycin and Polymyxin	Hance Brothers and White Co.
60–276	B Sulfates and Bacitracin Ointment	
AADA	Tetracycline	Premo Pharmaceutica Laboratories, Inc.
60–422	Hydrochloride Tablets	
AADA	Erythromycin Estolate	Life Laboratories, Inc.
62–362	Suspension, 250	
	Milligrams (mg) per 5	
	Milliliters (mL)	
ANDA	Isoniazid Tablets, 300 mg	Everylife.
80–126		
ANDA	Cyanocobalamin Injection	Dell Laboratories, Inc.
80–689	USP, 30 micrograms	
	(μg) per mL, 100 μg/mL,	
and 100 μg/mL		
ANDA	Lidocaine Hydrochloride	Do.
83–387	Injection USP, 1%	
ANDA	Lidocaine Hydrochloride	Do.
83–388	Injection USP, 2%	
ANDA	Vitamin A Capsules USP	Wharton Laboratories.
83–665		
ANDA	Pyridoxine Hydrochloride	Dell Laboratories, Inc.
83–771	Injection USP, 50	
	mg/mL	
ANDA	Pyridoxine Hydrochloride	Do.
83–772	Injection USP, 100 mg/mL	
ANDA	Thiamine Hydrochloride	Do.
83–775	Injection USP, 100 mg/mL	
ANDA	Chlorpheniramine Maleate	Newtron Pharmaceuticals, Inc
86–519	Tablets, USP, 4 mg	
ANDA	Brompheniramine Maleate	Do.
86–987	Tablets, USP, 4 mg	
ANDA	Fluorouracil Injection,	Marcher Laboratories, Ltd.
87–791	50 mg/mL	
ANDA	Hydrocodone Bitartrate	Abana Pharmaceuticals, Inc.
88–871	and Acetaminophen,	
	5 mg/500mg	
ANDA	Acetaminophen and Codeine	Superpharm Corp.
89–184	Phosphate Tablets, USP, 300 mg/30 mg	
ANDA	Meprobamate Tablets, USP, 400 mg	K. M. Lee Laboratories
89–538		

Therefore, notice is given to the holders of the AADA's and ANDA's listed in the table and to all other interested persons that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)) withdrawing approval of the AADA's and ANDA's and all amendments and supplements thereto on the ground that the applicants have

failed to submit reports required under § 314.81.

In accordance with section 505 of the act and 21 CFR part 314, the applicants are hereby provided an opportunity for a hearing to show why the applications listed above should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products covered by these applications.

An applicant who decides to seek a hearing shall file:

(1) On or before April 15, 1996, a written notice of participation and request for a hearing, and (2) on or before May 14, 1996, the data, information, and analyses relied on to demonstrate that there is a genuine and substantial issue of fact that requires a hearing. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, notice of participation, and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 314.200 and in 21 CFR part 12.

The failure of an applicant to file a timely written notice of participation and request for hearing, as required by § 314.200, constitutes an election by that applicant not to avail itself of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and constitutes a waiver of any contentions concerning the legal status of the drug products. FDA will then withdraw approval of the applications and the drug products may not thereafter lawfully be marketed, and FDA will begin appropriate regulatory action to remove the products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accordance with § 314.81. If the submission is not complete or if a request for a hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice of opportunity for a hearing must be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505 (21 U.S.C. 355)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: February 28, 1996.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 96–6174 Filed 3–14–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Ophthalmic Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. April 1, 1996, 8:30 a.m., Holiday Inn—Gaithersburg, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301–948–8900 or 1–800–465–4329, and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Alice Hayes, Sociometrics, Inc., 8300 Colesville Rd., suite 550, Silver Spring, MD 20910, 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Ophthalmic Devices Panel, code 12396.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 22, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The Division of Ophthalmic Devices will present the proposed draft guidance document for Photorefractive Keratectomy (PRK) Laser Systems and request comments and recommendations from the Panel on designated sections. The scope of the discussion will include a proposal from the Division to expand the guidance to address high myopia, hyperopia, astigmatism, and Laser Assisted In Situ Keratomileusis (LASIK). Single copies of the proposed outline for the discussion are available from the contact person (see above).

Technical Electronic Product Radiation Safety Standards Committee

Date, time, and place. April 9 and 10, 1996, 8:30 a.m., Corporate Bldg., 9200 Corporate Blvd., rm. 020B, Rockville, MD.

Type of meeting and contact person. Open committee discussion, April 9, 1996, 8:30 a.m. to 3:30 p.m.; open public hearing, 3:30 p.m. to 4:30 p.m., unless public participation does not last that long; open committee discussion, April 10, 1996, 8:30 a.m. to 11 a.m.; open public hearing, 11 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 3:30 p.m.; open public hearing, 3:30 p.m. to 4:15 p.m., unless public participation does not last that long; Orhan H. Suleiman, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3533, or call the FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Technical Electronic Product Radiation Safety Standards Committee, code 12399.

General function of the committee. The committee advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation under 42 U.S.C. 263f(f)(1)(A).

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 22, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. A brief overview and update of issues associated with the Radiation Control for Health and Safety Act (Pub. L. 90–602) will be presented by FDA staff. The committee will specifically discuss draft amendments to the following performance standards for ionizing radiation emitting products: (1) Radiographic dental equipment (21 CFR 1020.30); (2) mammography equipment (21 CFR 1020.30); and (3) laser products (21 CFR 1040.10). In addition, radiation exposure to patients during extended fluoroscopy procedures will be discussed.

Oncologic Drugs Advisory Committee

Date, time, and place. April 19, 1996, 8:30 a.m., Holiday Inn—Bethesda, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; Adele S. Seifried, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Oncologic Drugs Advisory Committee, code 12542.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 12, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) New drug application (NDA) 20–671, Hycamtin™ injection (topotecan HCl, SmithKline Beecham) for treatment of ovarian cancer after failure of first-line therapy; and (2) an update for the Committee on FDA Oncology activities, including the Cancer Liaison Program.

National Mammography Quality Assurance Advisory Committee

Date, time, and place. April 23, 24, and 25, 1996, 9 a.m., Sheraton Hotel—Reston, rooms One and Two, 11810 Sunrise Valley Dr., Reston, VA. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 703–620–9000 and reference the FDA committee meeting block. Reservations will be confirmed at the group rate based on availability.

Type of meeting and contact person. Open public hearing, April 23, 1996, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion, April 24, 1996, 9 a.m. to 1:15 p.m.; open subcommittee discussions, 1:15 p.m. to 5 p.m.; open committee discussion, April 25, 1996, 9 a.m. to 5 p.m.; Charles K. Showalter, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), National Mammography Quality Assurance Advisory Committee, code 12397.

General function of the committee. The committee advises on developing appropriate quality standards and regulations for the use of mammography facilities.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 16, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On April 23, 24, and 25, 1996, the committee will discuss the proposed regulations under the Mammography Quality Standards Act (the MQSA) of 1992. Copies of the proposed regulations will publish in the Federal Register in the near future and may be obtained by submitting a written request to the MQSA, c/o SciComm, P.O. Box 30224, Bethesda, MD, 20824–9998, or faxing a request to 301–986–8015. On April 25, 1996, the committee will discuss the ongoing work of the three subcommittees: Access to Mammography Services, Physicists Availability, and Cost Benefit of Compliance.

Open subcommittee discussion. On April 24, 1996, the three subcommittees will meet concurrently. The subcommittees will discuss information which is necessary to make the determinations and subsequently prepare the reports as mandated in the MQSA. Upon completion, the subcommittee reports will be reviewed by the committee prior to submission to the Secretary of Health and Human Services and Congress.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee

meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 11, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–6373 Filed 3–14–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority, Denver Regional Office

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (Federal Register, Vol. 60, No. 148, pp. 39404–39409, dated Wednesday, August 2, 1995) is amended to reflect a reorganization in the Denver Regional Office.

The Denver Regional Office (RO) proposes an organizational change, as a demonstration of a streamlined customer-focused organization, for up to 18 months. The new structure will eliminate one layer of management, reduce the number of management positions by nearly half, create customer-focused teams, and significantly empower staff.

The specific amendments to part F are described below:

Section F.10.D.6., (Organization) is amended to read as follows:

e1. State Team 1 (FLD8D)
e2. State Team 2 (FLD8E)
e3. State Team 3 (FLD8F)
e4. State Team 4 (FLD8G)

Section F.20.D.6.e., (Functions) will read as follows:

e.1.–4. State Team 1–4 (FLD8(D–G))

- State Teams will administer the full range of HCFA program responsibilities in the field. Teams are comprised of a multi-disciplinary work force which conducts all statutory, regulatory and administrative functions to manage the Medicare and Medicaid benefits for those enrolled in HCFA's programs with the six Regional VIII States—Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.

Operations

- Assures that health care services provided under the Medicare, Medicaid and CLIA programs are furnished in the most effective and efficient manner consistent with recognized professional standards of care.
- Evaluates services to ensure protection of beneficiaries receiving health care services under the Medicare, Medicaid, and CLIA programs.
- Determines program eligibility for all providers and suppliers under the Medicare program, and executes required agreements.
- Initiates, implements, and coordinates State related adverse actions and alternative remedies, including civil money penalties, and Federal activities against health care facilities not in compliance with Medicare or CLIA requirements.
- Establishes and maintains an extensive data and information gathering system involving all aspects of the certification program and CLIA.
- Responds to beneficiary, Congressional, provider, and public inquiries concerning Medicaid issues, including Freedom of Information Act requests.
- Develops and conducts training programs for the State survey agencies.
- Monitors and evaluates State activities related to Medicare and Medicaid survey and certification.
- Plans, manages and provides Federal leadership to State agencies in program development, implementation, maintenance, and the regulatory review of State Medicaid program management activities under title XIX of the Social Security Act.
- Plans, directs, coordinates, and approves Medicaid State agency data processing systems, proposals, modifications, operations, contracts and reviews. Assists Medicaid State agencies in developing innovative automated data processing health care systems. Assures the propriety of Federal expenditures.
- Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic program management and financial reviews to assure State adherence to Federal Law and regulations.
- Reviews, approves, recommends disapproval, and maintains official State plans and plan amendments for medical assistance.

• Provides consistent guidance, technical assistance, and policy interpretation to States on Medicaid program and financial issues.

• Reviews and approves managed care contracts and prepaid health plans.

• Directs activities in support of the Medicaid managed care program including technical support and oversight of these plans.

• Implements Title XIX special initiatives, such as maternal and child health, Acquired Immune Deficiency Syndrome, health maintenance organization contracts, and other special programs and operations of major management initiatives.

• Directs activities in support of the managed care program including technical support and oversight of prepaid contractors.

• Monitors all aspects of contractor performance including claims/bills processing; coverage decisions; medical review; the detection of fraud, abuse, and waste in the Medicare Program; overpayment identification and collection; Medicare Secondary Payer (MSP); provider payment and audit; payment to physicians and suppliers; and electronic media claims.

• Evaluates Medicare contractor performance and prepares annual Report of Contractor Performance.

• Recommends renewals, non-renewals, rescissions, and terminations of Medicare contracts.

• Coordinates the ESRD program.

Fiscal Integrity

• Makes final determination on all budget requests submitted by State Survey Agencies.

• Reviews, evaluates, and determines acceptability of audit findings and recommendations and takes necessary clearance and closure actions.

• Reviews, approves, and monitors State payment systems and determines the allowability of claims for Federal financial participation. Takes action to disallow claims when expenditures are not in accordance with Federal requirements and defends such action before the Departmental Appeals Board and in court. Defers payment action on questionable State claims for allowability.

• Reviews States' Medicaid Quarterly Estimates and Statement of Expenditures reports and recommends the amount to be estimated and allowed in the quarterly grants.

• Coordinates on-going contractor fiscal management activities, including subcontracting, cash management activities, and compliance with the Chief Financial Officers Act.

• Negotiates and approves Medicare contractor budget and budget modifications.

Customer Service

• Authorizes investigation of complaints received from beneficiaries, the public, the Congress, the media, and other sources which allege deficiencies in the quality of care rendered by certified health care providers.

• Actively participates in and takes a lead role in training, outreach and collaborative activities involving providers, provider groups, health care professionals, professional organizations, consumer groups, and State Survey Agencies, relating to quality of health care services.

• Conducts customer outreach and service initiatives.

• Manages beneficiary, provider, and public information programs.

• Ensures that Medicare beneficiaries are informed of HCFA program benefits, rights and responsibilities through a comprehensive marketing strategy to varied audiences.

• Coordinates the operation of a public information and outreach programs directed at beneficiary groups, professional organizations, advocacy organizations, other health care entities, and the media.

• Directs the implementation of HCFA beneficiary services initiatives, such as the Medigap, Retired Senior Volunteer Programs, Information Counseling Assistance grants, and Qualified Medicare Beneficiary programs.

Quality Functions

• Directs the review and evaluation of the effectiveness of the Medicare program.

• Pro-actively utilizes resources and information to effectively and efficiently assure practical quality health care for HCFA beneficiaries.

• Interprets and implements health and safety standards and evaluates, through surveillance and surveys, the impact on the utilization and quality of health care services.

• Provides leadership in the development, implementation and continuation of continuous quality improvement activities for the State Survey Agencies and providers.

• Provides leadership in the quality improvement aspects of HCFA's national managed care program.

• Directs Medicare program administration through working relationships with contractors, providers, physicians, beneficiaries, the Social Security Administration district offices, the Administration on Aging, the Office of Inspector General, and other Federal agencies, as well as local and national organizations and individuals, as required.

Dated: March 6, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 96–6296 Filed 3–14–96; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health; Notice of Meeting

Notice is hereby given of the third meeting of the Task Force on Genetic Testing of the National Institutes of Health—Department of Energy Joint Working Group on the Ethical, Legal, and Social Implications of Human Genome Research (ELSI Working Group) on Monday, April 29, 1996, 8:30 a.m. to recess; Tuesday, April 30, 1996, 8:30 a.m. to adjournment, at the Clarion Hotel at Mount Vernon Square, 612 Cathedral Street, Baltimore, Maryland, (410) 727–7101.

Contact Person: Joshua H. Brown, J.D., Genetics and Public Policy Studies, The Johns Hopkins Medical Institutions, 550 North Broadway, Suite 511, Baltimore, Maryland 21205, (410) 955–7894. An agenda for the meeting may be obtained from Mr. Brown.

The Task Force on Genetic Testing has developed a set of interim principles in three areas: scientific validation of new tests; laboratory quality; and, education, counseling, and delivery. These interim principles are being made public to give interested parties an opportunity to comment before the principles are finalized. A copy of the principles is available from Mr. Brown upon request.

Public Comment: Individuals or representatives of organizations wishing to make an oral presentation, of no more than 10 minutes, to the Task Force on Monday, April 29, between 2:00 p.m. and 4:30 p.m., should submit their name, affiliation, address, telephone number, and summary of their remarks to Mr. Brown at the above address by April 18. Written comments will be accepted up to May 31. Written comments received by April 18 will be considered by the Task Force at the April 29 meeting. All comments, whether oral or written, will be given full consideration by the Task Force on Genetic Testing.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Brown in advance of the meeting.

Dated: March 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6281 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: AIDS-Related Conference Grant, Clinical Investigator Awards, and a Program Project.

Date: April 19, 1996.

Time: 8:00 a.m.

Place: Doubletree Hotel, Montrose Room, 1750 Rockville Pike, Rockville, MD 20852, 301–468–1100.

Contact Person: Dr. Peter Jackson, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C10, Bethesda, MD 20892–7610, (301) 496–2550.

Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: March 11, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6273 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of SBIR Facial Profile 96–24.

Dates: April 3, 1996.

Time: 1 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of Maxillofacial Prosthetic Materials 96–26.

Dates: April 5, 1996.

Time: 3 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of Pharmacologic Effects of Fluoride 96–16.

Dates: April 9–10, 1996.

Time: 3 p.m.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of Secondary Caries 96–17.

Dates: April 19, 1996.

Time: 1 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).

Contact Person: Dr. Yong Shin, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: March 11, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6275 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of General Medical Sciences; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on May 16–17, 1996, Building 45, Room E1 and E2, Bethesda, Maryland.

This meeting will be open to the public from 11 a.m. to 6 p.m. on May 16, for the discussion of program policies and issues, opening remarks, report of the Acting Director, NIGMS, and other business of Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on May 16 from 8:30 a.m. to 11 a.m. and on May 17 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, national Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AS–43H, Bethesda, Maryland 20892, telephone: 301–496–7301, FAX 301–402–0224, will provide a summary of the meeting, and a roster of Council members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Dieffenbach in advance of the meeting. Dr. W. Sue Shafer, Executive Secretary, NAGMS Council, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, Maryland 20892, telephone: 301–594–4499 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority

Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS]; Special programs, 93.960.)

Dated: March 11, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6276 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

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: Transgenic Mouse Model Evaluation (RFP 96–25).

Date: March 18, 1996.

Time: 9:30 a.m.

Place: National Institute of Environmental Health Sciences South Campus, Building 101, Conference Room D–350, 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 Sections 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 contract review 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 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6278 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Immunopathogenesis of Chronic Graft Rejection.

Date: March 21–22, 1996.

Time: 8:30 a.m.

Place: Holiday Inn Georgetown, 2101 Wisconsin Ave., N.W., Washington, DC 20007, (202) 338–4600.

Contact Person: Dr. Paula Strickland, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C02, Bethesda, MD 20892–7610, (301) 402–0643.

Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institute of Health.)

Dated: March 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6279 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Deafness and Other Communication Disorders; Notice of Meeting of the Ad Hoc Speech and Speech Disorders Subcommittee of the National Deafness and Other Communication Disorders Advisory Council

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Ad Hoc Speech and Speech Disorders Subcommittee of the National Deafness and Other Communication Disorders Advisory Council on April 15, 1996. The meeting will take place from 1 to 4 pm in Conference Room 7, Building 31C, National Institutes of Health, 31 Center Drive, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of a speaker phone.

The meeting, which is open to the public, will be held to discuss changes in the scientific field of speech and speech disorders since the Research Plan was written compare the research portfolio of the Institute with the priorities in the Research Plan to determine areas of emphasis and levels of activity, and identify gaps and suggest new initiatives in preparation for the updating of the speech and speech disorders section of the Research Plan. Attendance by the public will be limited to the space available.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Mr. Baldwin Wong, National Institute of Deafness and Other Communication Disorders, 31 Center Drive, Room 3C31, National Institutes of Health, Bethesda, Maryland 20892–2320, (301) 496–7243, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Wong in advance of the meeting.

Dated: March 11, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6280 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute on Drug Abuse Initial Review Group.

Name of Committee: Human Development Research Subcommittee.

Date: March 19, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Kesinee Nimit, M.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing

limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: March 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6283 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Board of Scientific Counselors, National Center for Biotechnology Information

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine, on April 29–30, 1996.

The meeting on April 30 will be open to the public from 9 a.m. to 3 p.m. in the Board Room of the Library, 8600 Rockville Pike, Bethesda, Maryland, for the review of research and development programs and preparation of reports of the National Center for Biotechnology Information. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. David Lipman at 301–496–2475.

In accordance with provisions set froth in section 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on April 29 from 7 p.m. to approximately 10 p.m., at the Bethesda Hyatt Hotel, and on April 30, from 3 p.m. to approximately 5 p.m., in the Board Room of the National Library of Medicine, for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. David J. Lipman, Director, National Center for Biotechnology Information, national Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–2475, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: March 11, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6274 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, on May 6 and May 7, 1996, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 12:45 p.m. and from 1:45 p.m. to 4:45 p.m. on May 6 and from 9:00 a.m. to approximately 12 noon on May 7 for the review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jackie Duley at (301) 496–4441 in advance of the meeting.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on May 6, from approximately 12:45 p.m. to 1:45 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Harold M. Schoolman, Acting Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: March 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6277 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications—

Name of SEP: Clinical Sciences
Date: March 18, 1996
Time: 5:00 p.m.
Place: Holiday Inn-Bethesda, Bethesda, MD
Contact Person: Dr. Sharree Pepper, Scientific Review Administrator, 6701 Rockledge Drive, Room 4116, Bethesda, Maryland 20892, (301) 435–1781

Name of SEP: Biological and Physiological Sciences
Date: March 19, 1996
Time: 10:30 a.m.
Place: NIH, Rockledge 2, Room 6152, Telephone Conference
Contact Person: Dr. Jerry Roberts, Scientific Review Administrator, 6701 Rockledge Drive, Room 6152, Bethesda, Maryland 20892, (301) 435–1037

Name of SEP: Behavioral and Neurosciences
Date: March 24, 1996
Time: 9:00 a.m.
Place: Ramada Inn, Rockville, MD
Contact Person: Dr. Luigi Giacometti, Scientific Review Administrator, 6701 Rockledge Drive, Room 5179, Bethesda, Maryland 20892, (301) 435–1246

Name of SEP: Biological and Physiological Sciences
Date: March 25, 1996
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4150, Telephone Conference
Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meeting timing limitations imposed by the grant review and funding cycle.

Name of SEP: Chemistry and Related Sciences
Date: March 29, 1996
Time: 3:45 p.m.
Place: NIH, Rockledge 2, Room 4156, Telephone Conference
Contact Person: Dr. Ronald DuBois, Scientific Review Administrator, 6701 Rockledge Drive, Room 4156, Bethesda, Maryland 20892, (301) 435–1722

Name of SEP: Biological and Physiological Sciences
Date: March 29, 1996

Time: 8:00 a.m.
Place: Holiday Inn-Georgetown, Washington, DC
Contact Person: Dr. Samuel Rawlings, Scientific Review Administrator, 6701 Rockledge Drive, Room 5160, Bethesda, Maryland 20892, (301) 435–1244

Name of SEP: Behavioral and Neurosciences
Date: April 1, 1996
Time: 9:00 a.m.
Place: Embassy Suites Hotel, Washington, DC
Contact Person: Dr. Joseph Kimm, Scientific Review Administrator, 6701 Rockledge Drive, Room 5178, Bethesda, Maryland 20892, (301) 435–1249

Name of SEP: Biological and Physiological Sciences
Date: April 1, 1996
Time: 12:00 p.m.
Place: NIH, Rockledge 2, Room 5122, Telephone Conference
Contact Person: Dr. Michael Lang, Scientific Review Administrator, 6701 Rockledge Drive, Room 5122, Bethesda, Maryland 20892, (301) 435–1265

Name of SEP: Multidisciplinary Sciences
Date: April 1, 1996
Time: 1:00 p.m.
Place: Crystal City Gateway Marriott, Crystal City, VA
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171

Name of SEP: Multidisciplinary Sciences
Date: April 2, 1996
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5116, Telephone Conference
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171

Name of SEP: Multidisciplinary Sciences
Date: April 2, 1996
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 5114, Telephone Conference
Contact Person: Dr. Gerald Becker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5114, Bethesda, Maryland 20892, (301) 435–1170

Name of SEP: Biological and Physiological Sciences
Date: April 2, 1996
Time: 4:00 p.m.
Place: NIH, Rockledge 2, Room 6154, Telephone Conference
Contact Person: Dr. David Remondini, Scientific Review Administrator, 6701 Rockledge Drive, Room 6154, Bethesda, Maryland 20892, (301) 435–1038

Name of SEP: Biological and Physiological Sciences
Date: April 2, 1996
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4122, Telephone Conference
Contact Person: Dr. Krish Krishnan, Scientific Review Administrator, 6701 Rockledge Drive, Room 4122, Bethesda, Maryland 20892, (301) 435–1779

Name of SEP: Biological and Physiological Sciences
Date: April 2, 1996
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4206, Telephone Conference
Contact Person: Dr. Betty Hayden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4206, Bethesda, Maryland 20892, (301) 435–1223

Name of SEP: Biological and Physiological Sciences
Date: April 3, 1996
Time: 12:30 p.m.
Place: NIH, Rockledge 2, Room 5126, Telephone Conference
Contact Person: Dr. Anne Clark, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1017

Name of SEP: Biological and Physiological Sciences
Date: April 3, 1996
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5126, Telephone Conference
Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257

Name of SEP: Behavioral and Neurosciences
Date: April 5, 1996
Time: 8:00 a.m.
Place: Holiday Inn-Georgetown, Washington, DC
Contact Person: Dr. Jane Hu, Scientific Review Administrator, 6701 Rockledge Drive, Room 5158, Bethesda, Maryland 20892, (301) 435–1245

Name of SEP: Behavioral and Neurosciences
Date: April 9, 1996
Time: 8:00 a.m.
Place: Governor's House, Washington, DC
Contact Person: Dr. Carl Banner, Scientific Review Administrator, 6701 Rockledge Drive, Room 5182, Bethesda, Maryland 20892, (301) 435–1251

Name of SEP: Behavioral and Neurosciences
Date: April 9–10, 1996
Time: 9:00 a.m.
Place: Ana Hotel, Washington, DC
Contact Person: Dr. Cheryl Corsaro, Scientific Review Administrator, 6701 Rockledge Drive, Room 6172, Bethesda, Maryland 20892, (301) 435–1045

Name of SEP: Biological and Physiological Sciences
Date: April 9, 1996
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 6154, Telephone Conference
Contact Person: Dr.David Remondini, Scientific Review Administrator, 6701 Rockledge Drive, Room 6154, Bethesda, Maryland 20892, (301) 435–1038

Name of SEP: Chemistry and Related Sciences
Date: April 9, 1996
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4172, Telephone Conference
Contact Person: Dr. John Beisler, Scientific Review Administrator, 6701 Rockledge Drive, Room 4172, Bethesda, Maryland 20892, (301) 435–1727

Name of SEP: Microbiological and Immunological Sciences
Date: April 11, 1996
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4186, Telephone Conference
Contact Person: Dr. Gerald Liddel, Scientific Review Administrator, 6701 Rockledge Drive, Room 4186, Bethesda, Maryland 20892, (301) 435–1150

Name of SEP: Microbiological and Immunological Sciences
Date: April 11, 1996
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4180, Telephone Conference
Contact Person: Dr. Tim Henry, Scientific Review Administrator, 6701 Rockledge Drive, Room 4180, Bethesda, Maryland 20892, (301) 435–1147

Name of SEP: Microbiological and Immunological Sciences
Date: April 12, 1996
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4180, Telephone Conference
Contact Person: Dr. Tim Henry, Scientific Review Administrator, 6701 Rockledge Drive, Room 4180, Bethesda, Maryland 20892, (301) 435–1147

Name of SEP: Biological and Physiological Sciences
Date: April 18–19, 1996
Time: 8:30 a.m.
Place: Bethesda Marriott, Bethesda, MD
Contact Person: Dr. Anthony Carter, Scientific Review Administrator, 6701 Rockledge Drive, Room 5108, Bethesda, Maryland 20892, (301) 435–1167

Name of SEP: Multidisciplinary Sciences
Date: April 29, 1996
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 5206, Telephone Conference
Contact Person: Dr. Dharam Dhindsa, Scientific Review Administrator, 6701 Rockledge Drive, Room 5206, Bethesda, Maryland 20892, (301) 435–1174

The meetings will be closed in accordance with the provisions set forth in sections 552b (c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6433 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health; Chairpersons, Boards of Scientific Counselors for Institutes, Centers and Divisions at NIH

Notice is hereby given of a meeting scheduled by the Deputy Director for Intramural Research at the National Institutes of Health with the chairpersons of the Boards of Scientific Counselors. The Boards of Scientific Counselors are an advisory group to the Scientific Directors of the Intramural Research Programs at the NIH. This meeting will take place 10 a.m. to 4 p.m. on March 22, 1996, at the NIH, 9000 Rockville Pike, Bethesda, MD, Building 1, Room 151. The meeting will include a discussion of policies and procedures that apply to the regular review of NIH intramural scientists and their work, with special emphasis on clinical research.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Audrey Boyle at the Office of Intramural Research, NIH, Building 1, Room 114, Telephone (301) 496–1921 or Fax (301) 402–4273 in advance of the meeting.

Dated: March 6, 1996.

Ruth Kirschstein,

Deputy Director, NIH.

[FR Doc. 96–6282 Filed 3–14–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–76]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.)

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, (24 CFR part 581).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Navy: Mr. John Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; Interior: Ms. Lola D. Knight, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; General Services Administration: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; (These are not toll-free numbers).

Dated: March 8, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program
Federal Register Report for 03/15/96

Suitable/Available Properties

Buildings (by State)

Alabama

Natl Weather Service Station
Centreville
Brent Co: Bibb AL 35034–
Landholding Agency: GSA
Property Number: 549610005
Status: Excess
Comment: 2196 sq. ft. bldg., most recent use—office plus 2 ancillary bldgs with paved driveway and parking area, possible asbestos.

GSA Number: 4–C–AL–764

Illinois

Parcel 2
Portion Former Lock & Dam 51
Golconda Co: Pope IL 62938–
Landholding Agency: GSA
Property Number: 549610011
Status: Excess
Comment: 1274 sq. ft., bldg. which housed the lock control structures 2160 sq. ft. warehouse and ofc. bldg., presence of lead base paint, periodic flooding, Fed. Reg. of Historic Places.
GSA Number: 2–D–IL–703

Parcel 3
Portion Former Lock & Dam 51
Golconda Co: Pope IL 62938–
Landholding Agency: GSA
Property Number: 549610012
Status: Excess
Comment: 3244 sq. ft. metal bldg., 11852 sq. ft. marina dock and parking lot, 100 year floodplain.
GSA Number: 2–IL–D–703

North Carolina

National Weather Service
Cape Hatteras Island
Buxton Co: Dare NC
Landholding Agency: GSA
Property Number: 549610002
Status: Excess
Comment: 2517 sq. ft. bldg. w/inflation bldg. on 4.78 acres, most recent use—office, storage.

Land (by State)

New Iberia Training Area

Iberia Parish LA
Landholding Agency: GSA
Property Number: 549610004
Status: Excess
Comment: 203.5 acres potential environmental condition—storm water runoff.
GSA Number: 7–D–LA–0467E

Tennessee

17.18 acres—Milan Co: Carroll TN 38358–5000
Landholding Agency: GSA
Property Number: 549610003
Status: Excess
Comment: approx. 17.18 acres, long narrow shape, no public sewers.
GSA Number: 4–D–TN–0642

Suitable/Unavailable Properties

Buildings (by State)

California

Brown House 07–129
Highway 199
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619520030
Status: Excess
Comment: 1 story wood frame residence, off-site removal only.

Crist House 07–130
Highway 199
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619520031
Status: Excess
Comment: 1269 sq. ft., 1 story wood frame residence, off-site removal only, need repairs.

Dunkley House 07–127
Highway 199
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619520032
Status: Excess
Comment: 1269 sq. ft., 1 story wood frame residence, need repairs, off-site removal only.

Graton House 07–125
Highway 199
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619520033
Status: Excess
Comment: 1665 sq. ft., 1 story wood frame residence, need repairs, off-site removal only.

Schach House 07–105
Highway 199
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619520034
Status: Excess
Comment: 700 sq. ft., 1 story wood frame residence, off-site removal only, need repairs.

Young House 07–132
Highway 199
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619520035
Status: Excess
Comment: 1442 sq. ft., 1 story wood frame residence, off-site removal only.

New Mexico

Hornkohl Property
Petroglyph National Monument
Albuquerque Co: Bernalillo NM 87120–
Landholding Agency: Interior
Property Number: 619510001
Status: Excess
Comment: 1-story wood frame residence, needs rehab, off-site use only.

Virginia

NPS Tract 422–25
Former White property
County Rd. 602 on Moore Run near 4–H Camp
Front Royal Co: Warren VA 22630–
Landholding Agency: Interior
Property Number: 61944002
Status: Excess
Comment: 864 sq. ft., 2-story frame residence, w/Natl. Appalachian Trails System Act, off-site use only.

Washington

Construction Office Bldg.
Roosevelt Way
Coulee Dam Co: Okanogan WA 99116–
Landholding Agency: Interior
Property Number: 619410002
Status: Excess
Comment: 7778 sq. ft., 1 story frame structure, off-site removal only, most recent use—offices.

Land (by State)

Arizona

Tract No. APO–SRP–RB–5
Mesa Co: Maricopa AZ 85213–
Location: 2000′ south of Thomas Road at Val Vista Drive
Landholding Agency: Interior
Property Number: 619410005
Status: Unutilized
Comment: 0.57 acre; 20 foot strip of land which is 1,026 ft. long.

Quartermaster Depot
4th Avenue and Colorado River
Yuma Co: Yuma AZ 85364–
Landholding Agency: Interior
Property Number: 619420001
Status: Unutilized
Comment: Less than 1 acre, dirt and shrubbery along the river, lease restrictions, historical site.

ACDC Tract No. T–71A
Along the Arizona Canal
Glendale Co: Maricopa AZ 85306–
Landholding Agency: Interior
Property Number: 619530001
Status: Excess
Comment: 3.15 acres.

Tract No. OSG–1–23
Near McDowell Road & Bush Hwy.
Mesa Co: Maricopa AZ 85207–
Landholding Agency: Interior
Property Number: 619530012
Status: Excess
Comment: 0.29 acres, located next to private land owner, limited access.

California

Folsom South Canal
SW corner of Whiterock Rd. & Folsom S Canal
Rancho Cordova Co: Sacramento CA 95670–
Landholding Agency: Interior
Property Number: 619310002
Status: Excess
Comment: 1.52 acres; perpetual easement over .25 acre, surrounding land use is commercial.

Suitable/To Be Excessed

Buildings (by State)

Washington

Quarters No. 1204
604 S. Maple
Warden Co: Grant WA 98857–
Landholding Agency: Interior
Property Number: 619330001
Status: Excess
Comment: 850 sq. ft., one story frame residence, asbestos siding.

Quarters No. 1208
608 S. Maple
Warden Co: Grant WA 98857–
Landholding Agency: Interior
Property Number: 619330002
Status: Excess
Comment: 709 sq. ft., one story frame residence, asbestos siding.

Quarters No. 1301
3 SE and N Warden Road
Warden Co: Grant WA 98857–
Landholding Agency: Interior
Property Number: 619330003
Status: Excess
Comment: 709 sq. ft., one story frame residence on 4.9 acres, asbestos siding.

Unsuitable Properties

Buildings (by State)

Arizona

Inn Cabin #9
North Rim Grand Canyon
Grand Canyon Co: Coconino AZ 86023–
Landholding Agency: Interior
Property Number: 619530013
Status: Unutilized
Reason: Extensive deterioration.

Illinois

Parcel 1
Portion Former Lock & Dam 51
Golconda Co: Pope IL 62938–
Landholding Agency: GSA
Property Number: 549610010
Status: Excess
Reason: Extensive deterioration.
GSA Number: 2–D–IL–703

Montana

Barn/Garage
316 N. 26th Street
Billings Co: Yellowstone MT
Landholding Agency: Interior
Property Number: 619520022
Status: Excess
Reason: Extensive deterioration.

North Carolina

Structure M171
Marine Corps Base, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779610016
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Structure 910
Marine Corps Base, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779610017
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Structure SVL142
Marine Corps Base, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779610018
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Structure S936
Marine Corps Base, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779610019
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Structure FC363
Marine Corps Base, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779610020
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Bldg. 924
Marine Corps Base, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779610021
Status: Unutilized
Reason: Secured Area; Extensive deterioration.

Oregon

Bldg. 0210
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540002
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 0211
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540003
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 0213
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540004
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 0214
500 Nevada Street
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540005
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 0510
Wilson Dam Residence
Klamath Falls Co: Klamath OR 97601–
Landholding Agency: Interior
Property Number: 619540006
Status: Unutilized
Reason: Extensive deterioration.

Land (by State)

Arizona

Santa Fe Pacific Pipelines
Avenue 7E North from Hwy. 95
Yuma Co: Yuma AZ 85364–
Landholding Agency: Interior
Property Number: 619420003
Status: Unutilized
Reason: Secured Area.

Ed Bull Land
Northeast corner of Price & Galveston
Chandler Co: Maricopa AZ 85224–
Landholding Agency: Interior
Property Number: 619530011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.

John Bevel Surplus Land
Central Arizona Project Co: Maricopa AZ 85207–
Landholding Agency: Interior
Property Number: 619540001
Status: Excess
Reason: Other Comment: No legal access.

Case No. 95–019–Surplus Land
Dale Anderson (Farnsworth)
Mesa Co: Maricopa AZ 85220–
Landholding Agency: Interior
Property Number: 619610001
Status: Excess
Reason: Other Comment: Inaccessible.

[FR Doc. 96–5988 Filed 3–14–96; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of receipt of applications.

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.*).

Permit No. 808241

Applicant: Sonoma Water Agency, Santa Rosa, California.

The applicant requests a permit to take (capture and release) the California freshwater shrimp (*Syncaris pacifica*) in Sonoma, Marin, Lake, and Mendocino Counties, California to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 810193

Applicant: Michelle McCollom Caurana, Trabuco Canyon, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Orange, San Diego, Riverside, and San Bernardino Counties, California to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 802447

Applicant: Kimberly T. Miller, San Diego, California.

The applicant requests an amendment to their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, Riverside, Orange, and Los Angeles Counties, California to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 810766

Applicant: Paul A. Hamilton, Campo, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) to determine its presence or absence; and take (locate and monitor nests) the least Bells' vireo (*Vireo bellii pusillus*) to conduct population monitoring studies in Ventura, Los Angeles, San Bernardino, Riverside, Orange, Kern, and San Diego Counties, California for the purpose of enhancing their survival.

Permit No. 810768

Applicant: Harmsworth Associates, Dove Canyon, California.

The applicant requests a permit to take (locate and monitor nests) the least Bells' vireo (*Vireo bellii pusillus*) in Los Angeles, San Diego, Riverside, San Bernardino, Orange, and Ventura Counties, California to conduct population monitoring studies for the purpose of enhancing its survival.

Permit No. 782774

Applicant: Michael Brandman Associates, Sacramento, California.

The applicant requests an amendment to their permit to include taking (harass by survey, and collect and sacrifice voucher specimens) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), vernal pool tadpole shrimp (*Lepidurus packardi*), and vernal pool fairy shrimp (*Branchinecta lynchi*) in vernal pools throughout the species' range in California to determine presence or absence of the species for the purpose of enhancing their survival.

Permit No. 798744

Applicant: Kootenai Tribe of Idaho, Bonners Ferry, Idaho

The applicant requests an amendment of their permit to take (capture, collect, radio tag, mark, and release) the Kootenai River population of the white sturgeon (*Acipenser transmontanus*) to include that portion of the entire Kootenai River in Montana for conducting captive propagation and scientific research for the purpose of enhancing its propagation and survival.

Permit No. 781084

Applicant: Anita Marie Hayworth, San Diego, California.

The applicant requests an amendment to their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, Orange, Riverside, and San Bernardino Counties to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 781217

Applicant: Chambers Group, Inc., Irvine, California.

The applicant requests an amendment to their permit to include taking (harass by survey, and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, Orange, Riverside, Los Angeles, Santa Barbara, Ventura, and San Bernardino Counties to determine its presence or absence and conduct population monitoring studies for the purpose of enhancing its survival.

Permit No. 811188

Applicant: Resource Conservation District of the Santa Monica Mountains, Topanga, California.

The applicant requests a permit to take (capture and release) the tidewater goby (*Eucyclogobius newberryi*) in Malibu Lagoon, Los Angeles County, California to conduct population monitoring studies for the purpose of enhancing its survival.

Permit No. 811049

Applicant: Clifford W. Morden, University of Hawaii, Honolulu, Hawaii.

The applicant requests a permit to remove and reduce to possession one leaf from 10–20 individual *Haplostachys haplostachya* var. *angustifolia* (no common name) plants in 3 subpopulations from the Mouna Loa/Kea area of Hawaii to conduct genetic analyses for the purpose of enhancing its survival.

Permit No. 807078

Applicant: Point Reyes Bird Observatory, Stinson Beach, California.

The applicant requests a permit to take (capture, band, color band, and release; and erect predator exclosures) the western snowy plover (*Charadrius alexandrinus nivosus*) in Santa Cruz, Monterey, Santa Barbara (including Santa Rosa Island), Marin, and San Mateo Counties, California to conduct population monitoring and management of the species for the purpose of enhancing its survival. These activities were previously authorized under the Regional Director's permit no. PRT–702631.

Permit No. 787376

Applicant: Peter H. Bloom, Santa Ana, California.

The applicant requests an amendment to their permit to include taking (capture and release) the Pacific pocket mouse (*Perognathus longimembris pacificus*) in Los Angeles, Orange, and San Diego Counties, California to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 811332

Applicant: John A. Ebrey, Jacksonville, Illinois.

The applicant requests a permit to purchase in interstate commerce one pair of captive bred Hawaiian (=nene) geese (*Nesochen* [=*Branta*] *sandvicensis*) from Charles Nugent of Kimbolton, Ohio for the purpose of enhancing its propagation and survival.

Permit No. 781384

Applicant: Thomas A. Leslie, Riverside, California.

The applicant requests an amendment to their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the known range of the species in southern California to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 780565

Applicant: Jeff Wells, San Diego, California.

The applicant requests an amendment to their permit to include taking (harass by survey, and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego and Orange Counties to determine presence or absence and conduct population monitoring of the species for the purpose of enhancing its survival.

Permit No. 797228

Applicant: Martin R. Brittan, Folsom, California.

The applicant requests an amendment to their permit to include taking (harass by survey, and collect and sacrifice voucher specimens) the Riverside fairy shrimp (*Streptocephalus woottoni*) to determine its presence or absence and to increase the area of authorized activities to throughout the species' range in California for the purpose of enhancing the survival of the species.

Permit No. 811894

Applicant: Samuel M. McGinnis.

The applicant requests a permit to take (capture, mark, and release) the salt marsh harvest mouse (*Reithrodontomys raviventris*) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in San Mateo, Alameda, and Sonoma Counties, California to conduct presence or absence surveys and to aid in population management for the purpose of enhancing their survival. These activities were previously authorized under the Regional Director's permit No. PRT–702631.

DATES: Written comments on the permit applications must be received April 15, 1996.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: 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, to the following office: U.S. Fish and Wildlife Service, Ecological Services, Division of Consultation and Conservation Planning, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. Telephone: 503–231- 2063; FAX: 503–231–6243. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: March 7, 1996.

Thomas Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–6212 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–55–P

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has 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.*).

Applicant: David L. Evans, Hawk Ridge Research Station, Duluth, Minnesota.

The applicant requests a permit to take (capture, handle, band and release) Bald Eagles (*Haliaeetus leucocephalus*) and Peregrine Falcons (*Falco peregrinus*) in Minnesota and Wisconsin for scientific research. Banding of these species is a recovery action as identified in approved recovery plans.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: March 8, 1996.

Mamie A. Parker,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 96–6214 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–55–M

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for a Project Called Woolbright Joint Venture, Located in the City of Boynton Beach, Palm Beach County, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Mr. Howard R. Scharlin, Trustee (Applicant), is seeking an incidental take permit from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The permit would authorize the take of two families of the threatened Florida scrub jay, Aphelocoma coerulescens coerulescens in Palm Beach County, Florida for a period of 5 years. The proposed taking is incidental to construction of a mixed commercial and residential development called Woolbright Place, including the necessary infrastructure, on approximately 98.3 acres (Project). Within the Project, 3.2 acres are occupied by Florida scrub jays and will be permanently altered. The Project is in the northwest quadrant of the intersection of Woolbright Road and Interstate 95, within Section 29, Township 45 South, Range 43 East, Palm Beach County, Florida.

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. Copies of the EA or HCP may be obtained by making a request to the Regional Office address below. Requests must be submitted in writing to be adequately processed. This notice also advises the public that the Service has made a preliminary determination that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA and HCP should be received on or before April 15, 1996.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, or the South Florida Ecosystem Office, Vero Beach, Florida. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Please reference permit under PRT–811902 in such comments.

Endangered/Threatened Species Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, (telephone 404/679–7110, fax 404/679–7081).

Field Supervisor, U.S. Fish and Wildlife Service, South Florida Ecosystem Office, Post Office Box 2676, Vero Beach, Florida 32961–2676, (telephone 407/562–3909, facsimile 407/562–4288).

FOR FURTHER INFORMATION CONTACT: Brian Toland at the South Florida Ecosystem Office, Vero Beach, Florida, or Rick G. Gooch at the Atlanta, Georgia, Regional Office.

SUPPLEMENTARY INFORMATION: Aphelocoma coerulescens coerulescens is geographically isolated from other subspecies of scrub jays found in Mexico and the Western United States. The Florida scrub jay is found almost exclusively in peninsular Florida and is restricted to scrub habitat. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub jay population has been reduced by at least half in the last 100 years. Surveys have indicated that one family of Florida scrub jay inhabit the Project site. Construction of the Project's infrastructure and subsequent construction of the individual homesites will likely result in death of, or injury to, Aphelocoma coerulescens coerulescens incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development will reduce the availability of feeding, shelter, and nesting habitat.

The EA considers the environmental consequences of three alternatives. The no action alternative may result in loss of habitat for Aphelocoma coerulescens

coerulescens and exposure of the Applicant under Section 9 of the Act. A third alternative is the proposed Project that is designed with a different mitigation strategy. The proposed action alternative is issuance of the incidental take permit. This provides for restrictions of construction activity, purchase of offsite habitat for the Florida scrub jay, and the establishment of an endowment fund for the offsite acquired habitat. The HCP provides a funding mechanism for these mitigation measures.

As stated above, the Service has made a preliminary determination that the proposed action, e.g., issuance of the incidental take permit, is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102 (2)(C) of the National Environmental Policy Act of 1969, as amended. This preliminary information may be adjusted due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of the incidental take permit will not appreciably reduce the likelihood of survival and recovery of the affected species in the wild or result in the adverse modification of designated critical habitat. This decision is based upon and considers the cumulative impacts of past, present and future issuance of incidental take permits within the area affected in the permit action.

2. Issuance of an incidental take permit would not have significant effects on the human environment in the project area.

3. The proposed take is incidental to an otherwise lawful activity.

4. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

5. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the incidental take permit are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's incidental take permit is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

Dated: March 8, 1996.

Jerome M. Butler,

Acting Regional Director.

[FR Doc. 96–6211 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Request for Public Comments on Proposed Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made with 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 208 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 22092, telephone (703) 648–7313.

Title: Annual National Earthquake Hazards Reduction Program Announcement.

OMB approval number: 1028–0051.

Abstract: Respondents submit proposals to support research in earthquake hazards and earthquake prediction to earth-science data and information essential to mitigate earthquake losses. This information will be used as the basis for selection and award of projects meeting the program objectives. Annual or final reports are required on each selected performances.

Bureau form number: None.

Frequency: Annual proposals, annual or final reports.

Description of respondents: Educational institutions, profit and non-profit organizations, individuals, and agencies of local or State governments.

Annual responses: 500.

Annual burden hours: 17,200 hours.

Bureau clearance officer: John Cordyack, (703) 648–7313.

Dated: February 27, 1996.

P. Patrick Leahy,

Chief Geologist.

[FR Doc. 96–6173 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Oakbrook Chumash People, 3290 Lang Ranch Parkway, Thousand Oaks, CA 91362 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on May 25, 1995, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.9(a) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Dated: February 28, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–6257 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[WO–350–4210–01]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0153

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who seek to acquire the Federally owned (reserved) mineral interests underlying their surface estate. BLM collects information to assure that the applicant is the owner of the surface that overlies the Federally owned minerals and that statutory requirements for their conveyance have been met.

DATE: Comments on the proposed information collection must be received by May 14, 1996 to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C. Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include ''Attn: 1004–0153'' and your name and return address in your internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, L Street, NW, Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Carl C. Gammon, (202) 452–7777.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.8(d), BLM is required to provide 60-day notice in the Federal Register concerning a proposed collection of information to solicit comments on (a) 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; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (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 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.

Section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1719, states that the Secretary of the Interior may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership if he finds that there are no known mineral values in the land or that the reservation of the mineral rights in the United States is interfering with or precluding appropriate non-mineral development of the land and the non-mineral development is a more beneficial use of the land than mineral development. BLM adopted implementing regulations at 43 CFR Part 2720 in 1979 (44 FR 1342, January 4, 1979) and amended them in 1986 (51 FR 9657, March 20, 1986). The regulations establish a procedure whereby any individual seeking to acquire the Federally owned (reserved) mineral interest underlying their surface must make application and provide information essential to compliance with law, regulations, and procedures. At 43 CFR 2720.1–2, the regulations specify the information that must be included in the application in narrative form:

Name, address, and phone number. The name, mailing address, and telephone number of the existing or prospective record title owner of the land is necessary to identify and locate the individual for transacting business and communication. The phone number is necessary for direct communication with the applicant.

Proof of Ownership. Proof of ownership of land included in the application is necessary to assure the applicant is the record title owner of the surface. In the case of a prospective owner, the application must include a copy of the contract or a statement describing the method by which ownership will be obtained.

Supporting survey evidence. The applicant must include a copy of any patent or other instrument conveying the land included in the application, with supporting survey information. This information is necessary to legally describe the land in the application.

Statement. The applicant must include a statement concerning: (1) The nature of the Federally owned or reserved mineral values in the land, (2) the existing and proposed uses of the land, (3) why the mineral reservation is interfering with or precluding appropriate non-mineral development of the land, (4) how and why such development would be a more beneficial use than mineral development, and (5) a showing that the proposed use complies or will comply with State and local zoning or planning requirements. This information is necessary to assure that the application meets statutory requirements for receiving benefits.

BLM uses the information collected to analyze and approve applications for purchase of Federally owned mineral interests. If the information required by 43 CFR 2720.1–2 was not collected, BLM would be unable to carry out the mandate of Section 209 of FLPMA, and beneficial development of the surface would be precluded.

Based on its experience administering the regulations at 43 CFR Part 2720, BLM estimates that the public reporting burden for the information collection is eight hours per application. The respondents are non-Federal owners of the surface of the land in which the mineral interests are reserved or otherwise owned by the United States who seek to acquire those mineral interests. The frequency of response is one per application. BLM estimates that 29 Conveyance of Federally Owned Mineral Interests applications will be filed annually. The estimated total annual burden on new respondents is collectively 232 hours.

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

Dated: March 12, 1996.

Dr. Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–6270 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–84–P

[CA–066–06–1610–00]

Proposed California Desert Conservation Area Plan Amendment, Palm Springs—South Coast Resource Area, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy Management Act of 1976 (FLPMA) and the Code of Federal Regulations (40 CFR 1501.7, 43 CFR1610.2), notice is hereby given that the Bureau of Land Management (BLM) has prepared an environmental assessment and proposed California Desert Conservation Area plan amendment affecting public lands within the Palm Springs—South Coast Resource Area, southern California. Citizens are requested to review and provide comments on the proposed amendment and environmental assessment. BLM proposes to expand the boundaries of two existing Areas of Critical Environmental Concern (ACEC): the Big Morongo Canyon ACEC (No. 50) and the Salt Creek Pupfish/Rail Habitat ACEC (No. 60). The Salt Creek ACEC would be renamed the Dos Palmas ACEC.

DATES: Citizens are requested to provide written comments on the proposed amendment and environmental assessment no later than May 14, 1996 to the following address: Ms. Julia Dougan, Area Manager, Bureau of Land Management, Palm Springs—South Coast Resource Area, 63–500 Garnet Avenue, North Palm Springs, CA 92258–2000.

FOR ADDITIONAL INFORMATION CONTACT: If you would like to receive a copy of the Proposed Plan and Environmental Assessment, contact Ms. Elena Misquez, Bureau of Land Management, Palm Springs—South Coast Resource Area, 63–500 Garnet Avenue, North Palm Springs, CA 92258–2000; telephone (619) 251–4826.

SUPPLEMENTARY INFORMATION: The Big Morongo Canyon ACEC currently includes 3,705 acres of public land just east of Highway 62, and 7 miles north of Interstate 10, San Bernardino County. BLM proposes to expand the ACEC to approximately 29,000 acres to establish a corridor between the BLM-managed public lands and Joshua Tree National Park, 5 miles due east. The proposed ACEC expansion would protect sensitive plant and wildlife habitat and wildlife movement corridors. The legal description for the Big Morongo Canyon ACEC expansion is as follows:

Lots 1, 2, 5, 6, SE¼ NE¼, W½ NW¼, S½ above boundary of San Gorgonio Wilderness Area, Sec. 36, T.1 N., R.4 E., SBM. S½ SE¼ SE¼, SE¼ SW¼ SE¼, Sec. 13; E½ SE¼ SE¼, SW¼ SE¼ SE¼, Sec. 22; SE¼ NE¼, S½ SW¼, E½ SE¼, SW¼ SE¼, Sec. 23; E½ NE¼, S½ NW¼, S½, Sec. 24; Sec. 25–26 All; NE¼, S½ SW¼ NE¼ NW¼, SE¼ NE¼ NW¼, S½ SE¼ NW¼ NW¼, S½, Sec. 27; S½ SE¼ SW¼, SE¼, Sec. 28; S½ SE¼ SW¼ SW¼, E½ NE¼ SE¼ SW¼, SE¼ SE¼ SW¼, S½ NE¼ SE¼, S½ SE¼, Sec. 32; N½ NE¼, E½ SW¼ NE¼, E½ NW¼ SW¼ NE¼ SW¼ SW¼ NE¼, E½ NE¼ NW¼, E½ W½ NE¼ NW¼, S½ SE¼ NW¼, S½, Sec. 33; Secs. 34–36 All, T.1 S, R.4 E SBM. Secs. 1–5 All; N½, E½ SW¼, SE¼ Sec. 9; Secs. 10–12 All, T.2 S, R.4 E SBM. Sec. 6–7 All; W½ NE¼ NW¼ NE¼, W½ NW¼ NE¼, N½ NW¼, E½ NE¼ SE¼ NW¼, W½ W½ SE¼ NW¼, SW¼ NW¼, W½ NW¼ NE¼ SW¼, NW¼ SW¼, N½ SW¼ SW¼, SW¼ SW¼ SW¼, Sec. 8; Sec. 16–17 All; Lots 4, 11, 16, 17, 22, 23, 28, 29, 34, 35, 40, E½, E½ NW¼, E½ SW¼ Sec. 18; Secs. 19–21 All; Secs. 28–33, T.1 S, R.5 E SBM. Secs. 4–9 All; Secs. 16–18 All; NE¼ above aqueduct Sec. 19; N½, E½ SW¼, SE¼ Sec. 20; Sec. 21 All; Lots 1–5 Sec. 26; Sec. 27 All below aqueduct; N½, N½ SW¼, NE¼ SW¼ SW¼, N½ NW¼ SW¼ SW¼, SE¼ NW¼ SW¼ SW¼, N½ SE¼ SW¼ SW¼, N½ SE¼ SW¼, N½ SW¼ SE¼ SW¼, SE¼ SE¼ SW¼, SE¼, Sec. 28, T.2 S, R.5 E SBM.

The following management prescriptions are proposed: The powerline access road in Little Morongo Canyon leading to the southwest end of Yucca Valley will remain open to motorized vehicle use, bicycles, equestrian use, hunting, and pets on a leash. Vehicle travel will be limited to the existing road. OHV use off that road will be prohibited. Big Morongo Canyon will remain closed to public motorized vehicle use, bicycles, pets and hunting. Equestrian use will be allowed on designated trails in Big Morongo Canyon. Due to the low mineral material value and sensitive resources contained therein, mineral material sales would not be in the public's interest and will not be offered. The ACEC would continue to be closed to livestock grazing.

The Salt Creek Pupfish/Rail Habitat ACEC (4,288 acres) is located northeast of the Salton Sea and Highway 111 in Riverside County. The ACEC would be renamed as the Dos Palmas ACEC. The ACEC boundary would be expanded to 14,880 acres to include additional public lands and lands acquired by The Nature Conservancy for the protection of sensitive plant, wildlife and cultural resources. The legal description for the Dos Palmas ACEC is as follows: Sec. 34 All T.7 S, R.11 E SBM.; Secs. 2–4, 9–16, 21–28, 35—All, T.8 S, R.11 E, SBM. Secs. 18, 19, 30—All, T.8 S., R.12 E. SBM. The following management prescriptions are proposed: The width of the utility corridor which runs through the ACEC will be reduced to one mile to avoid areas with sensitive resources and still allow room for any future utility line development. The ACEC will be closed to public motorized vehicle use except along Dos Palmas Road to allow public access. Due to the low mineral material value and sensitive resources contained therein, mineral material sales would not be in the public's interest and will not be offered. The ACEC will remain closed to livestock grazing. The discharge of firearms will be disallowed except for the legal take of game. Pets shall be kept on a leash at all times. The palm oases within the ACEC will be closed to bicycles and equestrian use.

Nothing in this Proposed Plan shall have the effect of terminating any validly issued rights-of-way or customary operation, maintenance, repair, and replacement activities in such rights-of-ways within the ACEC boundaries in accordance with Sections 509(a) and 701(a) of the Federal Land Policy Management Act of 1976.

Dated: March 8, 1996.

Julia Dougan,

Area Manager.

[FR Doc. 96–6166 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–40–P

[CA–060–06–5440–00–B026]

Availability of the Record of Decision for the Mesquite Regional Landfill

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) has prepared a Record of Decision (ROD) for the Mesquite Regional Landfill in accordance with the National Environmental Policy Act of 1969, and the regulations at 40 CFR Part 1500. This document is now available to the public.

The ROD adopts the Proposed Action as described in the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) jointly prepared by the BLM and the County of Imperial. The ROD approves a land exchange (CACA–34105) and issuance of a right-of-way grant (CACA–29617) to Gold Fields Mining Corporation who, through its wholly owned subsidiary Arid Operations, Inc., will operate the landfill in Imperial County, California.

The landfill will encompass approximately 4250 acres, including approximately 1750 acres of public lands currently administered by BLM. The BLM- administered lands in the project area will be exchanged for approximately 2640 acres of private land located elsewhere in Imperial and Riverside Counties. The exchange of approximately 5 acres of public land currently situated within the Singer Geoglyphs Area of Critical Environmental Concern will not be completed until such time as the California State Director issues a separate ROD approving an amendment to the California Desert Conservation Area Plan to exclude this land from the ACEC and redesignate it as Multiple-Use Class M. The exchange of the five acre parcel is not essential to the construction or operation of the Mesquite Regional Landfill.

The right-of-way grant is for the construction, operation and maintenance of a five mile long railroad spur between the landfill and the existing Southern Pacific rail line near Glamis, California. The term of the grant is 40 years with an option for renewal.

DATES: A 45 day protest period on the land exchange and a 30 day appeal period on the right-of-way both begin March 15, 1996. Protests on the land exchange must be received by May 1, 1996, and appeals to the right-of-way must be received by April 15, 1996.

ADDRESSES: Protests and appeals should be sent to: Bureau of Land Management, El Centro Resource Area, 1661 South 4th Street, El Centro, CA 92243.

FOR ADDITIONAL INFORMATION CONTACT: To obtain a copy of the ROD, contact Thomas Zale, Multi-Resources Staff Chief, El Centro Resource Area at (619) 337–4420.

SUPPLEMENTARY INFORMATION: The environmental analysis of the proposed action and alternatives is described in the April 1994 Draft EIS/EIR and the June 1995 Final EIS/EIR for the Mesquite Regional Landfill, including the Responses to Comments Volume and Technical Appendices A through I. The BLM's decisions to approve the land exchange and issue the right-of-way grant are based on the management considerations identified in the ROD. The right-of-way grant is issued subject to the condition that the holder comply with all mitigation and monitoring requirements identified in the ROD, including those derived from the U.S. Fish and Wildlife Service's Biological Opinion for the project and the California State Historic Preservation Officer's concurrence determination for the project.

Dated: March 6, 1996.

Terry A. Reed,

Area Manager.

[FR Doc. 96–5898 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–40–P

[WY–921–41–5700; WYW134389]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW134389 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW134389 effective November 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 96–6104 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–22–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 a.m., March 7, 1996.

The plat representing the dependent resurvey of portions of the subdivisional lines, of the 1917 meander lines, on the left bank of the Snake River, and of the 1881 meander lines, now a fixed and limiting boundary, in section 16, T. 9 N., R. 16 E., Boise Meridian, Idaho, Group No. 912, was accepted, March 7, 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: March 7, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–6171 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–GG–M

[ID–957–1050–00]

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 a.m., March 5, 1996.

The plat representing the dependent resurvey of portions of the subdivisional lines, of the 1913–1915 meanders of the Salmon River in section 14, and of a portion of the subdivision of section 1, and the subdivision of section 14, and a metes-and-bounds survey in sections 1 and 14, T. 19 N., R. 21 E., Boise Meridian, Idaho, Group No. 916, was accepted, March 5, 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: March 5, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–6172 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Subsistence Resource Commission Meeting

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order.

(2) Roll call.

(3) Approval of summary of meeting minutes for November 7–9, 1995.

(4) Review agenda.

(5) Superintendent's introduction of guests and staff and review of SRC function and purpose.

(6) Superintendent's management/research reports:

a. Administration and management.

b. Park operations.

c. Resource management.
d. Subsistence program.
(7) Public and agency comments.
(8) Old business:
a. Incoming correspondence.
b. Federal Subsistence Program update.
c. Discuss draft Review of Subsistence Law and NPS Regulations Paper.
d. Update on NPS Firearms/Trapping Regulation clarification.
e. Review of public and agency comments on Hunting Plan Recommendation #11: Customary and Traditional Use Determinations.
f. Status of previously submitted Hunting Plan Recommendations #9 and #10.
g. Status of Anaktuvuk Pass Land Exchange Legislation.
(9) New business:
a. Federal Regional Council actions that may affect subsistence regulations for the park or preserve.
b. Incidental business permits and park concessions.
(10) Set time and place of next meeting.
(11) Adjournment.

DATES: The meeting will be held Wednesday, Thursday and Friday, March 20–22, 1996. The meeting will be held from 7 p.m. to 9:30 p.m. on Wednesday, from 8:30 a.m. to 4:30 p.m. and from 7 p.m. to 9 p.m. on Thursday and from 8:30 to 11 a.m. on Friday.

LOCATION: The meeting will be held at Commack's Lodge in Shungnak, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Superintendent, Gates of the Arctic National Park and Preserve, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Robert D. Barbee,

Field Director.

[FR Doc. 96–6161 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–70–M

Native American Graves Protection and Repatriation Review Committee; Nomination Solicitation

AGENCY: National Park Service

ACTION: Native American Graves Protection and Repatriation Review Committee; Notice of Nomination Solicitation

SUMMARY: The Native American Graves Protection and Repatriation Review Committee [P.L. 101–601] became law on November 16, 1990. Section 8 of the Act establishes a review committee to monitor implementation of the statute, facilitate the resolution of disputes, consult with the Secretary of the Interior in the development of regulations, and report to Congress on the status of implementation. The National Park Service is soliciting nominations for membership on this review committee.

DATES: Nominations should be received by May 14, 1996.

ADDRESSES: Nominations should be sent to the Departmental Consulting Archeologist, Archeology & Ethnography Program, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Nominations should include a brief biographical outline with home and business addresses and telephone number of each individual recommended.

FOR FURTHER INFORMATION CONTACT: Departmental Consulting Archeologist Francis P. McManamon or NAGPRA Team Leader C. Timothy McKeown at (202) 343–4101. A copy of the charter for this review committee is available upon request.

SUPPLEMENTARY INFORMATION:

Section 8 (b) of the Act stipulates that the review committee be composed of seven members appointed by the Secretary of the Interior as follows:

a. Three members appointed from nominations by Indian tribes, Native Hawaiian organizations, and traditional religious leaders, with at least two such persons being traditional religious leaders. The term traditional religious leader means:

1. a person who is recognized by members of an Indian tribe or Native Hawaiian organization as being responsible for performing cultural duties relating to the ceremonial or religious traditions of that Indian tribe; or

2. organization or exercising a leadership role in an Indian tribe or Native Hawaiian organization based on the tribe or organization's cultural, ceremonial, or religious practices.

b. Three members appointed from nominations submitted by national museum organizations and scientific organizations; and

c. One member appointed from a list of persons developed and consented to by all of the other members.

The National Park Service is soliciting nominations from Indian tribes, Native Hawaiian organizations, national museum organizations, and scientific organizations. The Secretary of the Interior may not appoint Federal officers or employees to the review committee. The Secretary of the Interior will appoint one member nominated by Indian tribes or Native Hawaiian organizations as soon as possible. Five additional members will be appointed prior to the expiration of the current members' terms in March, 1997. The seventh member will be appointed from a list of persons developed and consented to by the review committee at it's spring, 1997, meeting.

Dated: March 12, 1996

Michele C. Aubry

Acting Departmental Consulting Archeologist

Archeology & Ethnography Program

[FR Doc. 96–6261 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–70–F

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information on financial interests of State regulatory employees or members of advisory boards and commissions established in accordance with State law or regulation who regulate underground or surface coal mining operations; Indian lands program; revisions, renewals and transfer, assignment, or sale of permit rights; minimum requirements for legal, financial, compliance, and related information for coal mining permits; and right-of-entry requirements for abandoned mine land reclamation projects.

DATES: Comments on the proposed information collection must be received by May 14, 1996, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 120—SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact the Bureau's clearance officer, John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB)

regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in (1) 30 CFR 705, Restriction on financial interests of State employees; (2) 30 CFR 750, Indian lands program; (3) 30 CFR 774, Revision; renewal; and transfer, assignment, or sale of permit rights; (4) 30 CFR 778, Permit applications—minimum requirements for legal, financial, compliance, and related information; and (5) 30 CFR 877, Rights of entry for abandoned mine land reclamation projects.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents, or programmatic changes. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Restrictions on financial interests of State employees.

OMB Control Number: 1029–0067.

Summary: Respondents supply information on employment and financial interests. The purpose of the collection is to ensure compliance with section 517(g) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), which places an absolute prohibition on having a direct or indirect financial interest in underground or surface coal mining operations.

Bureau Form Number: OSM–23.

Frequency of Collection: Entrance on duty and annually.

Description of Respondents: Any State regulatory authority employee or member of advisory boards and commissions established in accordance with State law or regulation to represent multiple interests who performs any function or duty under the Act is required to file a statement of employment and financial interests.

Total Annual Responses: 2,316.

Total Annual Burden Hours: 784.

Title: Indian lands program.

OMB Control Number: 1029–0091.

Summary: Operators who propose to conduct surface coal mining and reclamation operations on Indian lands must comply with the permitting and approval requirements of Part 750 which supplements the regulatory program by specifying additional requirements unique to Indian lands and outside the scope of the regulatory program.

Frequency of Collection: On occasion.

Description of Respondents: Applicants for coal mining permits.

Total Annual Responses: 34.

Total Annual Burden Hours: 1,688.

Title: Revision; renewal; and transfer, assignment, or sale of permit rights.

OMB Control Number: 1029–0088.

Summary: Sections 506(d), 511(a)(1) and 511(b) of Public Law 95–87 provide that persons seeking permit revisions, renewals, transfer, sale or assignment of permit rights for coal mining activities, submit relevant information to the regulatory authority to allow the regulatory authority to determine whether the applicant meets the requirements for the action anticipated.

Frequency of Collection: On occasion.

Description of Respondents: Coal mine operators.

Total Annual Responses: 6,545.

Total Annual Burden Hours: 59,560.

Title: Permit applications—minimum requirements for legal, financial, compliance, and related information.

OMB Control Number: 1029–0034.

Summary: Section 507(b) of SMCRA provides that persons conducting coal mining activities submit to the regulatory authority all relevant information regarding ownership and control of the property to be affected, their compliance status and history. This information is used to ensure all legal, financial and compliance requirements are satisfied prior to issuance or denial of a permit.

Frequency of Collection: On occasion.

Description of Respondents: Applicants for coal mining and reclamation operation permits.

Total Annual Responses: 473.

Total Annual Burden Hours: 18,919.

Title: Rights of Entry.

OMB Control Number: 1029–0055.

Summary: This regulation establishes procedures for non-consensual entry upon private lands by a regulatory authority for the purpose of abandoned mine land reclamation activities or exploratory studies when the landowner refuses consent or is not available.

Frequency of Collection: On occasion.

Description of Respondents: Regulatory Authorities.

Total Annual Responses: 38.

Total Annual Burden Hours: 38.

Dated: March 11, 1996.

Judy A. Saunders,

Acting Chief, Office of Technology Development and Transfer.

[FR Doc. 96–6258 Filed 3–14–96; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–744 (Preliminary]

Certain Brake Drums and Rotors From China

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping Investigation No. 731–TA–744 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China (China) of certain brake drums and rotors,[1] provided for in subheading 8708.39.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must complete preliminary antidumping

[1] The products subject to investigation consist of brake drums and rotors (discs) made of grey cast iron, whether finished, unfinished, or semi-finished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms) which do NOT contain an original equipment manufacturer (OEM) (e.g., General Motors, Ford, Chrysler, Honda, and Toyota) logo or part number.

investigations in 45 days, or in this case by April 22, 1996. The Commission's views are due at the Department of Commerce within five business days thereafter, or by April 29, 1996.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: March 7, 1996.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 2 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on March 7, 1996, by the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers, whose members consist of Brake Parts, Inc., McHenry, IL; Kinetic Parts Manufacturing, Inc., Harbor City, CA; Iroquois Tool Systems, Inc., North East, PA; and Wagner Brake Corporation, St. Louis, MO.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 28, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Debra Baker (202–205–3180) not later than March 25, 1996, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 2, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: March 12, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–6272 Filed 3–14–96; 8:45 am]

BILLING CODE 7020–02–P

Sunshine Act Meeting

[USITC SE–96–04]

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATES: March 22, 1996, at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–741–743 (Preliminary) (Melamine Institutional Dinnerware from the People's Republic of China, Indonesia, and Taiwan).
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 13, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–6424 Filed 3–13–96; 2:36 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Bernardo G. Bilang, M.D.; Denial of Application

On August 3, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Bernardo G. Bilang, M.D., (Respondent), of Sargent, Nebraska, notifying him of an opportunity to show cause as to why the DEA should not deny his application for a DEA Certificate of Registration, under 21 U.S.C. 823(f), because the Nebraska Bureau of Examining Boards (Medical Board) had denied his application for a state license to practice medicine and surgery. The order also notified the Respondent that, should no request for a hearing be filed within 30 days, the hearing right will be deemed waived. The DEA received information that the Respondent had moved to Largo, Florida, and the order was mailed to that location by certified mail. The DEA received a receipt from the United States Postal Service showing that the order was delivered, and the receipt was signed and dated August 26, 1995. However, the DEA did not receive a reply from the Respondent to the order.

Therefore, the Deputy Administrator concludes that the Respondent is deemed to have waived his hearing right. After considering the investigative file, the Deputy Administrator now enters his final order in this matter without a hearing pursuant to 21 CFR 1301.54(e) and 1301.57.

The Deputy Administrator finds that on April 20, 1993, the Respondent completed a DEA Application for Registration as a practitioner. However, the DEA received a copy of a letter from the Medical Board dated March 29, 1993, indicating that the Respondent's application for a license to practice medicine and surgery in Nebraska had been denied.

The DEA does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state in which he conducts business to dispense controlled substances. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). The DEA has consistently so held. See Lawrence R. Alexander, M.D., 57 FR 22256 (1992); Bobby Watts, M.D., 53 FR 11919d (1988); Robert F. Witek, D.D.S., 52 FR 47770 (1987).

Here, it is clear that the Respondent is not currently authorized to practice medicine in the State of Nebraska. From this fact, the Deputy Administrator infers that since the Respondent is not authorized to practice medicine, he also is not authorized to handle controlled substances. Therefore, because the Respondent lacks state authority to handle controlled substances, he currently is not entitled to a DEA registration.

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 C.F.R. 0.100(b) and 0.104, hereby orders that the Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied, This order is effective April 15, 1996.

Dated: March 7, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–6222 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated December 15, 1995, and published in the Federal Register on December 28, 1995, (60 FR 67141), The Binding Site, Inc., 5889 Oberlin Drive, Suite 101, San Diego, California 92121, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxymethamphetamine (7405).	I
Normorphine (9313)	I
Methamphetamine (1105)	II
Amobarbital (2125)	II
Secobarbital (2315)	II
Ecgonine (9130)	II
Ethylmorphine (9190)	II
Meperidine intermediate-C (9234)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of The Binding Site, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: March 5, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–6223 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated December 22, 1995, and published in the Federal Register on January 22, 1996 (61 FR 1603), Knight Seed Company, Inc., 151 W. 126th Street, Burnsville, Minnesota 55337, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of marihuana (7360), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Knight Seed Company, Inc. to import marihuana is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: March 6, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–6226 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 19, 1995, and published in the Federal Register on October 25, 1995 (60 FR 54708), Nycomed, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of meperidine (9230), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Nycomed, Inc. to manufacture the listed controlled substance is consistent with the public interest at this time. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: March 5, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–6224 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–73]

R. Bruce Phillips, D.D.S.; Grant of Application

On August 11, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order

to Show Cause to R. Bruce Phillips, D.D.S., (Respondent) of Pineville, Louisiana, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

(1) In 1985, the Louisiana State Police conducted an investigation concerning the Respondent's prescribing practices. The investigation revealed that between January 1980 and September 1985, the Respondent prescribed large amounts of controlled substances to several individuals for no legitimate medical reason.

(2) As a result of this investigation, in August 1986, a one-count Bill of Information was filed in the United States District Court, Western District of Louisiana, charging the Respondent with unlawfully dispensing 1,263 dosage units of controlled substances. On September 2, 1986, the Respondent pled guilty to the Bill of Information. The Respondent was sentenced to a six-month period of confinement, placed on probation for four years, and ordered to pay a fine of $5,000.00.

(3) Following the Respondent's conviction, he entered into a consent agreement with the Louisiana State Board of Dentistry (Dental Board) on October 28, 1986. As part of the agreement, the Dental Board placed his dental license on probation for five years subject to certain terms and conditions, and the Respondent's State authority to handle controlled substances was revoked permanently. As a result, on October 27, 1986, the Respondent voluntarily surrendered his DEA Certificate of Registration, AP3383685. On July 23, 1992, the Dental Board reinstated the Respondent's State privileges to prescribe controlled substances.

On September 6, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in New Orleans, Louisiana, on June 21, 1995, before Administrative Law Judge Paul A. Tenney. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On August 28, 1995, Judge Tenney issued his Opinion and Recommended Ruling, recommending that the Respondent's application for registration be granted. Neither party filed exceptions to his decision, and on September 28, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Findings of Fact, Conclusions of Law, and Recommended Ruling of the Administrative Law Judge, 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, pursuant to stipulations made by the parties before Judge Tenney, the following facts are not in dispute: (1) In 1985, the Louisiana State Police conducted an investigation concerning the Respondent's prescribing practices, which covered the period of January 1980 and September 1985; (2) in August 1986, a one-count Bill of Information was filed in the United States District Court, Western District of Louisiana, relating to the Respondent's unlawful dispensing of 1,263 dosage units of controlled substances; (3) on September 2, 1986, the Respondent pled guilty to the Bill of Information, and he was sentenced to a six-month period of confinement, placed on probation for four years, and ordered to pay a fine of $5,000.00; (4) following his conviction, the Respondent entered into a consent agreement with the Dental Board on October 28, 1986, and as part of the agreement, the Dental Board placed the Respondent's dental license on probation for five years, subject to certain terms and conditions, and his State authority to handle controlled substances was revoked; and (5) on October 27, 1986, the Respondent voluntarily surrendered his DEA Certificate of Registration, but on July 23, 1992, the Dental Board reinstated his State privileges to prescribe controlled substances. The parties also stipulated that Percodan, Demerol, and Mepergan Fortais are Schedule II controlled substances.

The Deputy Administrator also finds that the Respondent is a Board qualified oral and maxillo-facial surgeon who has practiced in that field of speciality since 1958. He is licensed to practice his specialty in the State of Louisiana. On August 5, 1992, he executed an application for registration as a practitioner with the DEA.

The acts underlying the criminal conviction include the Respondent's conduct of issuing prescriptions for controlled substances at the request of two individuals, after he had been drinking alcohol to excess. One of these individuals was a local resident with widely known criminal ties, and the second individual was a local attorney who was representing the Respondent in a pending court action. The Respondent did not maintain office records for either of these individuals. During an interview with the State police on August 26, 1986, the Respondent admitted that he had issued prescriptions to the first individual as a personal favor, even though this individual suffered ailments outside the Respondent's area of practice.

Before Judge Tenney, a Special Agent with the FBI testified about the investigation he had conducted while employed as a Louisiana State Trooper involving the Respondent. He stated that from May of 1980 to August of 1984, the Respondent had issued 77 prescriptions for almost 1,500 dosage units of controlled substances for the first individual or his wife. During the same interview with the State Trooper, the Respondent admitted that, before prescribing controlled substances to the attorney, he had not conducted an examination, and that, although he had become aware that the attorney was abusing the drugs he prescribed for him, he continued to issue the prescriptions for controlled substances partly out of friendship, and partly out of fear that the attorney would not properly handle his lawsuit should the Respondent cease providing the prescriptions. From 1982 to 1984, the Respondent wrote a total of 36 prescriptions to this attorney for a total of 710 dosage units of Percodan.

Judge Tenney found that the evidence established that ''the vast majority, if not all of the unlawful prescriptions were issue[d] while [the Respondent] was under the influence of alcohol.'' He also found that the ''State police investigation revealed that both [of these individuals] took advantage of [the Respondent's] intoxicated state and 'used' him for the purpose of obtaining controlled dangerous substances.''

As a result of this conduct, the Respondent entered a guilty plea in Federal court for unlawfully dispensing Percodan. The Court sentenced him to five years imprisonment, but suspended all but six months of this time, and placed him on probation for four years. He was also ordered to pay a fine of $5,000.00. The Respondent also entered into a consent agreement with the Dental Board. The consent agreement levied conditions upon his continued practice of dentistry, to include placing him on probation for five years and revoking his State registration to handle controlled substances.

The Respondent had an early release fro the detention center, he performed 400 hours of community service at the Huey P. Long Medical Center, and he paid his fine. On November 19, 1990, the Respondent's probation was terminated early upon the recommendation of his probation officer. Further, the Respondent voluntarily quit drinking alcohol about ten years ago, a fact corroborated by his co-workers, one of which testified before Judge Tenney that he believed that the Respondent had ''quit drinking completely.''

Although the consent decree at the Dental Board indicated that the Respondent's certificate to prescribe controlled substances was ''revoked'' permanently, the Respondent's license to prescribe controlled substances was reissued by the State Department of Health and Hospitals. Further, testimony was received from a representative of the Dental Board, that the Board had not received any complaints concerning the Respondent, and that he as ''in good standing.'' Finally, the record contains a document demonstrating that the Dental Board ''strongly recommended the return of [the Respondent's] DEA registration.''

Currently, the Respondent is employed at the Huey P. Long Medical Center (Center), and he is performing his dental specialty at the Center's satellite clinic on England Air Force Base. The Center's director submitted an affidavit dated June 19, 1995, writing that he had known the Respondent for nearly 30 years, was aware of his problems which surfaced in the mid-1980's, and that it was his opinion that the Respondent was ''a skilled, competent, [and] knowledgeable oral surgeon with a good moral character.'' He also wrote that the Respondent operated at the clinic daily and saw approximately 2,500 patients annually.

Another dentist working at the Center testified before Judge Tenney, stating that the Respondent was a highly competent oral and maxillo-facial surgeon, and he recommended that the Respondent's DEA Certificate of Registration be reinstated. This colleague also opined that the Respondent had a strong relationship with his wife, children, and grandchildren.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for registration as a practitioner, if he determines that granting the 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 applicant'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, all five factors are relevant in determining whether the Respondent's registration would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board, * * *'' the consent decree of record between the Respondent and the Dental Board is relevant, indicating the State licensing board's response to the Respondent's misconduct. However, also relevant is the Dental Board's contribution of the Respondent's license to practice dentistry, for it was never revoked, and the reinstatement of the Respondent's State license to prescribe controlled substances. Finally, the Dental Board, in correspondence to the Respondent, recommended that his DEA registration application be granted.

As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' factor four, the Respondent's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances,'' and factor five, ''[s]uch other conduct which may threaten the public health or safety,'' there is no dispute that in the mid-1980's, the Respondent had engaged in the unlawful prescribing of controlled substances for no legitimate medical purpose. Further, as to factor three, the Respondent's ''conviction record under Federal or State laws relating to the * * * distribution, or dispensing of controlled substances,'' there is no dispute that the Respondent, pursuant to the entry of a guilty plea, was convicted of the unlawful dispensing of 1,263 dosage units of controlled substances. Thus, the Deputy Administrator agrees with Judge Tenney's conclusion that the Government has made a prima facie case for denying the Respondent's application.

However, the Respondent presented considerable evidence of rehabilitation. The Respondent had engaged in his prior misconduct while under the influence of alcohol. Now, however, the record supports a finding that the Respondent, for approximately ten years, voluntarily has quit drinking alcohol. Judge Tenney also found that the Respondent had demonstrated, and other witnesses had corroborated, that he had experienced a significant life change since he stopped drinking alcohol. His relationship with his wife has improved; he has close relationships with his children and grandchildren; and he was active in his church. Professionally, he is in good standing with the Dental Board, and the Director of the Center where he is employed supports his application.

In light of the above, the Deputy Administrator agrees with Judge Tenney's conclusion that the Respondent ''has accepted responsibility for his actions and has suffered the consequences. In balance, it is evident that [the Respondent] has turned his life around and will not repeat the mistakes of the past.'' Although in no way condoning the Respondent's past misconduct, the Deputy Administrator finds that now the public's interest is best served by issuing a DEA Certificate of Registration to the Respondent.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application of R. Bruce Phillips, D.D.S., for a DEA Certificate of Registration, be, and it hereby is, approved. This order is effective March 15, 1996.

Dated: March 7, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–6221 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–55]

Service Pharmacy, Inc.; Continued Registration

On June 14, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Service Pharmacy, Inc., (Respondent) of Marion, North Carolina, notifying it of an opportunity to show cause as to why DEA should

not revoke its DEA Certificate of Registration, AS3172157, and deny any pending applications for renewal, under 21 U.S.C. 823(f) and 824(a)(4), as being inconsistent with the public interest.

On July 8, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Asheville, North Carolina, on April 18 through April 19, 1995, before Administrative Law Judge Paul A. Tenney. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On July 31, 1995, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, recommending that the Deputy Administrator take no action against the Respondent's registration. Neither party filed exceptions to his decision, and on September 1, 1995, Judge Tenney transmitted his opinion and the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, 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 investigation of the Respondent was initiated in February of 1990 after an investigator (Investigator) from the North Carolina Board of Pharmacy (Pharmacy Board) received information from the attorney for the Estate of James Toney that the Respondent had billed the Estate for prescriptions that the deceased's family did not believe to be properly authorized by the deceased's physicians. The Investigator interviewed Mrs. Toney, the deceased's wife, who related that her husband had had a friendship with John Lowder and Bill Jordan, the original owners of the Respondent pharmacy. James Segars had purchased Bill Jordan's half ownership interest in the pharmacy in 1984. Mrs. Toney also related an incident when she had confronted her husband about whether he used Halcion, and Mr. Toney had started that he did take Halcion, and that ''the pharmacists were taking care of him.'' Halcion is a brand name for a product containing triazolam, a Schedule IV controlled substance pursuant to 21 CFR 1308.14(c).

The Investigator also jointly interviewed Mr. Toney's adult son and daughter, who corroborated the information received from Mrs. Toney. The son lived adjacent to Mr. Toney's home, believed that he had ''a good feel'' for his father's affairs, and did not believe that his father had been to any physicians recently. Also according to family members, Mr. Toney had been very depressed prior to his death. In addition, the Investigator received from the family prescription vials, receipts, and canceled checks, indicating that the Respondent was the source of the medication dispensed to Mr. Toney.

Next, the Investigator apprised Mr. Segars of the information he had received concerning Mr. Toney, and Mr. Segars denied any wrongdoing. The Investigator then obtained various records and data from the pharmacy, with the help of one of its employees, and using the data, compiled a computer printout of prescriptions filled by the Respondent for Mr. Toney from January 1986 until January 1990.

The Investigator then visited the offices of five physicians, Dr. Van Blaricom, Dr. Croft, Dr. Hart, Dr. Larry Boyles, and Dr. Wayne Boyles, who purportedly had issued prescriptions to Mr. Toney during the time frame in question. He obtained an affidavit from Dr. Van Blaricom, indicating that he had not authorized Mr. Toney's prescriptions for Tylenol No. 3 on October 30, 1988, nor Valium, 5 mg., on October 30, 1988, or on May 24, 1989. The parties stipulated to the fact that Tylenol No. 3 is a Schedule III controlled substance pursuant to 21 CFR 1308.13(e), and Valium is a brand name for a product containing diazepam, a Schedule IV controlled substance pursuant to 21 CFR 1308.14(c).

The Investigator also received an affidavit from Dr. Croft, stating that the doctor had reviewed his record for Mr. Toney ''back to 1983'', and from then until the date that he executed the affidavit, April 26, 1990, ''neither he nor any member of his staff prescribed or otherwise authorized the Halcion .25 mg. or Amitriptyline 50 mg.'' to Mr. Toney. The Respondent pharmacy, however, had filled prescriptions for 120 units of Halcion (.25 mg.), and 900 units of Amitriptyline (50 mg.) between 1986 and 1990, that were purportedly authorized by Dr. Croft for Mr. Toney.

The Investigator also obtained an affidavit from Dr. Hart. He denied authorizing prescriptions for 270 units of Tylenol No. 3 to Mr. Toney, which were filled by the Respondents between November 1, 1987, and June 13, 1988.

After interviewing Dr. Larry Boyles, the Investigator obtained an affidavit regarding his treatment of Mr. Toney. Dr. Larry Boyles denied treating or prescribing any controlled substances for Mr. Toney since July 21, 1986. The Investigator also interviewed and obtained an affidavit from Dr. Wayne Boyles, who denied ever treating Mr. Toney or authorizing any prescriptions for him. The Respondent pharmacy had dispensed from December of 1986 to January of 1990, 840 units of Halcion (.25 mg.) to Mr. Toney without authorization from either of these two physicians.

On April 6, 1990, the Investigator separately interviewed three of the Respondent's pharmacy technicians. He testified that each technician had ''characterized the pharmacist or pharmacy staff at the Respondent pharmacy as being highly ethical. They estimated that the pharmacy filled in excess of 300 prescriptions a day[,] and each denied any knowledge of any illegal activity occurring at the store.''

On April 9, 1990, the Investigator interviewed and obtained written statements from Mr. Lowder, Mr. Seagars, and Mr. Jordan, all pharmacists associated with the Respondent pharmacy. It was undisputed that Mr. Toney was suffering from several debilitating medical conditions. Both Mr. Lowder's and Mr. Jordan's statements characterized Mr. Toney as a trusted friend with legitimate medical problems. Also, Mr. Jordan acknowledged that he had filled a ''call-in type prescription without checking with the physician'' based simply on the representation that the physician wanted Mr. Toney to continue using a particular medication. According to Mr. Lowder's statement, he also had filled prescriptions for Mr. Toney without physician authorization and based solely on Mr. Toney's representations.

According to Mr. Segars' statement, he also had filled call-in type prescriptions for Mr. Toney without checking with the physicians. He wrote that, based on Mr. Jordan's and Mr. Lowder's trust in Mr. Toney, he had relied on Mr. Toney's representation that the physician wanted him to continue using the requested medication. Mr. Segars admitted that ''where his name appears on the [prescription] profile [attached to his written statement] as the dispensing pharmacist, he is responsible for that dispening[,] and where his name appears as the original dispensing pharmacist[,] he is responsible for creating that prescription without

authorization of a physician and dispensing that product to Mr. Toney at the normal fee for that product.''

On May 9, 1990, the Investigator conducted a drug accountability audit at the Respondent pharmacy. Mr. Lowder did not contest the audit. Employees of the Respondent assisted in conducting the audit, which covered the seven products received by Mr. Toney. Based on his audit, the Investigator prepared a computation chart. The pharmacy had either an overage or a shortage of each product, with the discrepancies ranging from a 0.99 percent shortage for Valium (5 mg.) to a 39.9 percent overage for Halcion (.125 mg.). The Investigator testified that the discrepancies were significant enough to cause him concern.

The Investigator also testified that he had noticed, among other problems, that there were ''numerous occasions where prescriptions had been refilled beyond their authorized or lawful limits. There had been numerous occasions of quantities of products dispensed in excess of what had been authorized on the original prescription.''

Next the Investigator profiled and reviewed patient information for eight customers of the pharmacy, for whom he had noted some irregularities. Based on his review, the Investigator testified that he had ascertained that there had been unauthorized dispensing to six of the eight customers. For example, the Investigator's review revealed that the Respondent had dispensed approximately 816 units of Valium (5 mg.) and 1620 units of Ativan (1 mg.) to a patient without a physician's authorization. The parties have stipulated that Ativan is a brand name for a product containing lorazepam, a Schedule IV controlled substance pursuant to 21 CFR 1308.14(c).

On July 2, 1990, the Investigator conducted second interviews with Mr. Segars and Mr. Lowder, to discuss the patients other than Mr. Toney. In response to the ''excessive refills and excessive quantities.'' Mr. Segars and Mr. Lowder asserted that ''they had checked with the physicians before dispensing either the additional prescription or the additional amount on a prescription.'' Other accountability problems were attributed to a deficient computer system.

On August 7, 1990, the Investigator again interviewed pharmacy technicians, who testified that out of the approximately 300 prescriptions filled per day by the Respondent pharmacy, the technicians had witnessed Pharmacists Segars and Lowder fill unauthorized prescriptions two to three times a week. The technicians also stated that the pharmacy had received samples from two physicians, and that these samples had been punched out of the manufacturer's packaging and combined with the pharmacy's inventory. On August 29, 1990, Pharmacists Segars and Lowder admitted the conduct concerning the samples, for they admitted that the pharmacy had received samples from two physicians, and that non-outdated samples were combined with the store's common stock and eventually sold to customers.

On May 17, 1991, the Pharmacy Board issued a written notice of an administrative hearing to determine whether or not Pharmacists Jordan, Lowder, and Segars, and the Respondent pharmacy, had violated North Carolina law, and if so, what action to take. The Investigator had compiled all of the information obtained during his investigation into a chronological report, and he had submitted it to the Pharmacy Board.

On July 16, 1991, a hearing was held, the parties proposed that the Pharmacy Board enter a consent order, and the Board agreed. In the Consent Order, the Pharmacy Board found that (1) from March 1986 through January 1990, Pharmacists Lowder and Segars and ''dispensed Schedules III and IV controlled substances to James Toney without a physician's authorization;'' (2) that Pharmacist Jordan had dispensed Tylenol No. 3 to Mr. Toney, also without physician's authorization, on two occasions; (3) that unauthorized prescriptions had been filled for the same specific patient identified by the Investigator, and that excessive refills had been dispensed to that patient; (4) that Pharmacists Lowder and Segars had dispensed Schedules III and IV controlled substances to five patients in excess of the number of refills shown on the prescription; (5) that the pharmacy's computer system was lacking; (6) that samples had been combined with the normal pharmacy stock; and (7) that a drug accountability audit had revealed shortages of controlled substances. Based on its findings, the Pharmacy Board concluded that the pharmacists and the Respondent pharmacy had violated both Federal and State law. Therefore, the Pharmacy Board ordered revocation of Mr. Lowder's and Mr. Segars' licenses, but stayed that revocation for a period of ten years and imposed the following conditions on each of their licenses: (1) An active suspension of their licenses for 120 days each; (2) successful completion of the Board's jurisprudence exam; (3) successful completion of the University of Kentucky College of Pharmacy's course on prescribing and use of controlled substances, or the equivalent thereof; and (4) no violations of any laws governing the practice of pharmacy or the distribution of drugs, nor of any regulations or rules of the Pharmacy Board, during the ten-year stay period. Pharmacist Jordan's license was placed on probation for five years.

In addition, the license of the Respondent pharmacy was actively suspended for seven days, and revocation thereof was stayed for ten years. The following conditions were imposed on the pharmacy by the Consent Order: (1) During the seven-day active suspension, the pharmacy was ordered to display signs provided by the Pharmacy Board, notifying the public of the suspension; (2) the pharmacy was ordered to give 30 days' advance notice to its customers before the suspension went into effect; and (3) the pharmacy was ordered not to violate any laws governing the practice of pharmacy or the distribution of drugs, or any regulations or rules of the Board, during the ten-year stay period.

Both the United States Department of Justice and the North Carolina State authorities declined to prosecute the pharmacists. Although the Investigator informed the DEA of the Pharmacy Board's findings and provided a copy of his report and the consent order in August of 1991, the DEA conducted no independent investigation of the pharmacy. In February of 1993, a DEA Diversion Investigator visited the Respondent's location and asked Mr. Lowder to voluntarily surrender the DEA registration, but upon advice of counsel, Mr. Lowder refused. Before Judge Tenney, the DEA Investigator testified that the sole basis for the revocation of the Respondent's registration was the state investigator's investigation and the resulting consent order of July 1991.

At the hearing before Judge Tenney, Mr. Segars admitted that he had violated the law prior to 1991, that information was handled poorly at the pharmacy, and that the pharmacists did not confirm medication prescriptions as required by law. He also testified that he, the other pharmacists, and the pharmacy have carried out all of the terms and conditions of the consent order. Both Mr. Segars and Mr. Lowder had attended and completed a five-day course at the University of Kentucky in compliance with the order. Judge Tenney noted in his opinion:

> Mr. Segars volunteered that the course at the University of Kentucky, which focused on doctors with abuse problems, ''was not as beneficial'' as he had hoped it would be * * *. This candid statement, among others,

leads me to conclude that Mr. Segars was honest and forthright in his testimony. In addition, Mr. Segars' positive attitude regarding present and future compliance, and his conduct since 1990, are deemed representative of the Respondent pharmacy. Pharmacist [Lowder] is too sick to work now, and Pharmacist Jordan has retired and only works occasionally.

Also, according to the testimony of the Investigator, a relief pharmacist had ''characterized the computer system at the store [as of September 1990] as being confusing.'' However, Mr. Segars testified that immediately after the consent order was executed, a new computer system was acquired for the pharmacy to ensure better record-keeping. Further, Mr. Segars attended seminars on how to use this computer equipment. The pharmacy's software has been updated to make internal reports easier, and Mr. Segars now knows how to utilize the software features.

However, when asked what had caused the problems that were not attributable to the pharmacy's prior computer system, Mr. Segars also testified:

''We—I believed too many things, I accepted too many people's word and I'm not sure that they were actually misleading me or lying to me trying to get unauthorized medicines, but until I placed the call and got it on a patient's record that I did call and did get a refill authorized, then it is an illegal prescription. I was negligent in not following up on things as I should have.''

Mr. Segars also related an instance when he had received a doctor's request for a controlled substance, and unsure of the propriety of the request, he had called the Pharmacy Board for assistance. He testified that he now calls the Pharmacy Board whenever he is in doubt about dispensing a particular medication in a particular situation. Mr. Segars also testified that he had physically rearranged the interior of the pharmacy to ensure greater supervision therein, and to insure that no ''mistakes'' would be made at the Respondent pharmacy.

The investigator testified that he had no information of wrongdoing by the Respondent pharmacy since the entry of the consent order in 1991. Also, the Investigator's supervisor, by affidavit, wrote that the pharmacy and its pharmacists appear to be in full compliance with the consent order, and that his office has received no new reports of any violations of the laws governing the practice of pharmacy or the distribution of drugs by any of the individual pharmacists ''or the Pharmacy itself.'' Also, to renew their pharmacist licenses each year, Mr. Segars, Mr. Lowder, and Mr. Jordan must complete 10 hours annually of continuing education.

Numerous witnesses from Marion, North Carolina, and its surrounding areas, testified before Judge Tenney on behalf of the Respondent and its pharmacists. The witnesses, including a Sheriff's Detective, the President of the McDowell Technical Community College, a Pastor, and a customer, testified to the good character of the pharmacists and to the excellent reputation of the Respondent pharmacy. As noted by Judge Tenney, ''[s]ome of the witnesses emphasized the importance of the pharmacy's free-delivery policy and the fact that it sells products on store credit. The pharmacists' familiarity with customers' allergies and their concerns over drug interactions were also identified as important safeguards provided by the pharmacy. [The] Pastor [ ] testified about the pharmacy's role in providing medicine to indigents in affiliation with the First United Methodist Church.'' Also, several of the Respondent's character witnesses expressed the opinion that the pharmacists are the type of people who learn from their mistakes and correct their ways. Even the Investigator testified that the pharmacists exhibited a receptiveness to changing their ways.

The Respondent also submitted twenty additional affidavits by medical doctors who serve or served the community, and the affiants attested to the good reputation of the pharmacy and its pharmacists. The pharmacy's free-delivery policy was cited as providing a valuable service to the community's elderly and shut-ins.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke or suspend 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 in determining the ''public interest:''

(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 applicant'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, all five factors are 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, * * *'' the Pharmacy Board, through the consent order, reviewed the thorough investigation report of the Investigator, and determined, despite the documented violations, that the pharmacy and the pharmacists should continue in operation, after a short suspension period and with stringent rehabilitative requirements. The Investigator's supervisor affirmed that the pharmacy and the pharmacists have complied with the consent order, and that his office has received no new reports of any violations of the laws governing the practice of pharmacy or the distribution of drugs. Despite the Investigator's statement of his opinion, that the Respondent's continued registration would be inconsistent with the public's interest, Judge Tenney noted:

In light of the incongruous nature of [the] Investigator ['s] [ ] personal opinion and the actions and mandate of the North Carolina Board of Pharmacy, together with a perceived lack of conviction with which [the] Investigator [ ] stated his opinion. Little weight is assigned to his opinion that continued registration of the pharmacy is inconsistent with the public interest.

Thus, although no formal recommendation has been made by the North Carolina Board of Pharmacy, the fact that the Board has permitted the Respondent to continue dispensing controlled substances to the public amounts to an assessment by the Board that the pharmacy no longer ''present[s] a danger to the public health, safety and welfare.'' This fact weighs in favor of the Respondent.

The Deputy Administrator agrees with Judge Tenney's findings regarding this factor.

As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' the Respondent's pharmacists knowingly dispensed a significant quantity of controlled substances without physician authorization during the timeframe of 1983 to 1990. The pharmacists also refilled prescriptions beyond their authorized or lawful limits, and

dispensed excess quantities. Further, sample products were illegally combined with the pharmacy's common stock for sale to the public, and inaccurate records were maintained, as evidenced by the overages and shortages revealed by the Investigator's May 1990 audit.

However, the Respondent's conduct since 1991 is also relevant under factor two. Specifically, after entry of the Consent Order in 1991, steps were taken to insure better record-keeping, to include the purchase, installation, and use of a new computer system. Also, the pharmacists took remedial training in handling controlled substances. The Investigator testified that he had no information of any wrongdoing by the pharmacy or its pharmacists since the entry of the Consent Order in 1991. He also testified that the pharmacists were receptive to changing their ways.

As to factor three, ''the applicant's conviction record under Federal or State laws * * *'', it is uncontradicted that neither the Respondent nor any of the pharmacists has been convicted under Federal or State laws relating to the dispensing of controlled substances.

As to factor four, the Respondent's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances,'' the Deputy Administrator concurs with Judge Tenney's finding that ''[m]ost of the conduct discussed under factor (2) is indicative of noncompliance with State and Federal laws relating to controlled substances. For instance, by dispensing Schedule III and IV controlled substances without physician authorization, the Respondent pharmacy violated 21 CFR 1306.21(a) (requiring practitioner authorization either via written, facsimile, or oral prescription).'' Further, the Respondent's acts of combining and selling samples as common stock violate the Federal Prescription Drug Marketing Act. See 21 U.S.C. 301, 331(t) and 353(c)(1). In the Consent Order, the Pharmacy Board also concluded that the Respondent's actions violated Federal and State law.

As to factor five, ''[s]uch other conduct which may threaten the public health or safety,'' Judge Tenney noted that the Government contended that ''[w]here, as in this case, a pharmacist abdicates [his responsibility to use common sense and professional judgment], either intent[ional]ly or negligently, it jeopardizes the public health and welfare * * *.'' However, Judge Tenney concluded, and the Deputy Administrator concurs, that ''[a]pparently the Government is reiterating the same conduct under factor (5) that has been discussed at length under factors (2) and (4). As this does not constitute 'other conduct,' the discussion under factors (2) and (4) shall suffice. Factor (5) is not deemed significant in assessing the public interest in this case.''

In viewing these factors as a whole, the Deputy Administrator finds that the Government has established a prima facie case that continued registration of the Respondent by the DEA is inconsistent with the public interest. However, also relevant is the Respondent's evidence of rehabilitation. First, at the hearing before Judge Tenney and before the Pharmacy Board, the pharmacists took responsibility for their misconduct. They have also acted in compliance with the consent order, and actually have exceeded those requirements by installing a new computer system and taking classes to more competently operate the system to improve their defective record-keeping. Further, Mr. Segars testified that when he now has doubts about dispensing a medication, he calls the Pharmacy Board for guidance. He also acknowledged that ''until [he] placed the call [to the physician] and got it on a patient's record that [he] did call and did get a refill authorized, then it is an illegal prescription.''

Further, there is no evidence of wrongdoing after 1991 by the pharmacy or its pharmacists. In fact, the Investigator testified that the pharmacists were receptive to changing their ways, and the Respondent's character witnesses testified that the pharmacists are individuals who learn from their mistakes and do not repeat them. Judge Tenney concluded that ''[a]ll of the foregoing rehabilitation evidence leads to the conclusion that notwithstanding the illegal conduct prior to 1991, the Respondent can now be trusted with a DEA Certificate of Registration. It follows that continued registration by the DEA is not inconsistent with the public interest under 21 U.S.C. 823 and 824.''

Judge Tenney also noted that there ''was never any evidence that the pharmacy [had] filled unauthorized prescriptions to facilitate the illegal resale of drugs by customers, nor any evidence that the pharmacy's motivation was monetary gain. For instance, Mr. Toney, the principal recipient of unauthorized prescriptions, had numerous medical ailments, and the medications at issue were legitimately prescribed on occasion. Although this does not diminish the seriousness of the pharmacists' behavior, it does evidence a humanitarian motive rather than greed or hedonism.'' Further, the Respondent presented evidence of its community service, to include free delivery and credit policies which benefit the public by assisting the elderly and the poor.

As Judge Tenney rightly noted, ''[a]lthough these services are commendable, they would not prohibit revocation or suspension of the Respondent's Certificate of Registration if a threat still existed that the Respondent would fill unauthorized prescriptions or otherwise violate the law.'' However, the Deputy Administrator agrees with Judge Tenney's conclusions, that ''notwithstanding [that] the Respondent's past conduct would justify outright revocation in the absence of credible rehabilitation evidence, such evidence is present in this case. Pharmacist Segars' understanding of the Respondent's illicit behavior, his remorse for that past conduct, the rehabilitative steps taken, and the Respondent's 'apparent commitment to a more responsible future lead to the conclusion that revocation would not be appropriate.' '' Steven W. Patwell, M.D., 59 FR 26814 (1994).

Further, safeguards already exist to monitor the Respondent's future conduct, for the Respondent, Mr. Segars, and Mr. Lowder remain on probation by the North Carolina Board of Pharmacy. The Deputy Administrator agrees with Judge Tenney's observation that, ''in light of the thoroughness with which the Board conducted its investigation and the Board's mandate to protect the 'public health, safety and welfare,' the Board reasonably can be expected to lift the stay of revocation in the highly unlikely event that the Respondent's past violations recur. Under such circumstances, the pharmacy would lack State authority to handle controlled substances, and the DEA would not have the authority to maintain the pharmacy's registration under the Controlled Substance Act.''

Again, the Deputy Administrator emphasizes that the conclusion to continue the Respondent's registration in no way endorses the past misconduct of the Respondent. Rather, in determining whether continuing the Respondent's registration would be inconsistent with the public's interest, the Deputy Administrator has determined that, (1) given the commitment of the Respondent's pharmacists to future compliance, (2) the evidence of consistent compliance since 1991, and (3) the other rehabilitative actions taken, the public's interest is best served in this case by

continuing the Respondent's registration.

Therefore, the Deputy Administrator finds that the public interest is best served by continuing the DEA Certificate of Registration, AS3172157, issued to Service Pharmacy, Inc. 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 C.F.R. 0.100(b) and 0.104, hereby orders that the Respondent's DEA Certificate of Registration be, and it hereby is, continued. This order is effective March 15, 1996.

Dated: March 4, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–6220 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated December 22, 1995, and published in the Federal Register on January 22, 1996, (61 FR 1604), Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of etonitazene (9624), a basic class of controlled substances listed Schedule I.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Sigma Chemical Company to import etonitazene is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: March 6, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–6225 Filed 3–14–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Supersedeas Decisions to General Wage Determination Decisions

The number of the decisions being superseded and their date of notice in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the number of decisions being superseded.

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Virginia

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Volume III

Alabama

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South Carolina

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Utah

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Washington

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Wyoming

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New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and Related Acts'' are listed by Volume and State:

Volume VI

California
CA960041 (Mar. 15, 1996)
CA960042 (Mar. 15, 1996)
CA960043 (Mar. 15, 1996)
CA960044 (Mar. 15, 1996)
CA960045 (Mar. 15, 1996)
CA960046 (Mar. 15, 1996)
CA960047 (Mar. 15, 1996)
CA960048 (Mar. 15, 1996)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA960001 (Mar. 15, 1996)
MA960007 (Mar. 15, 1996)
MA960019 (Mar. 15, 1996)
MA960069 (Mar. 15, 1996)
New York
NY960069 (Mar. 15, 1996)

Volume V

Iowa
IA960005 (Mar. 15, 1996)
IA960015 (Mar. 15, 1996)
IA960017 (Mar. 15, 1996)
Kansas
KS960006 (Mar. 15, 1996)

Volume VI

Oregon
OR960017 (Mar. 15, 1996)
Washington
WA960009 (Mar. 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The General wage determinations issued under the Davis-Bacon and Related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C., this 8th day of March, 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–6036 Filed 3–14–96; 8:45 am]

BILLING CODE 4510–27–M

Office of the Assistant Secretary for Veterans Employment and Training

Homeless Veterans Employment and Training Program; Notice of Availability of Funds

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, DOL.

ACTION: Notice of availability of funds (NOAF).

SUMMARY: This Notice announces the availability of $1.3 million for applications for assistance in providing employment, training, supportive and transitional housing services for eligible homeless veterans. This notice sets forth the procedures for obtaining an application for funds for the operation of a Homeless Veterans Employment and Training Program funded by the U.S. Department of Housing and Urban Development (HUD) and administered by HUD, Office of Committee Planning and Development and the Department of Labor (DOL), Office of Veterans' Employment and Training through grants with State and local public agencies and nonprofit organizations. Funds will be awarded competitively.

CLOSING DATE: The closing date for receipt of a completed application package in response to this notice is April 15, 1996.

ADDRESSES: A copy of the application package and instructions for completion may be obtained by written request directed to: U.S. Department of Labor, Office of Procurement Services, Rm. N5416, 200 Constitution Ave., N.W., Washington D.C. 20210, Attention: Grants Specialist Lisa Harvey, Telephone (202) 219–9355, or U.S. Department of Housing and Urban Development, Office of Special Needs Assistance Programs, Rm. 7266, 451 7th Street, S.W., Washington D.C. 20410, Attention Paul B. Dornan, Telephone (202) 708–1226, Reference SGA 96–03.

SUPPLEMENTARY INFORMATION:

I. Substantive Description

(a) Authority

Funds available for this program are authorized by Title IV, Subtitle C, Supportive Housing Program, of the Stewart B. McKinney Homeless Assistance Act, (Pub. L. 100–77). Funds made available under this NOAF are subject to the statutory requirements for the use of these funds as specified above and in accordance with the provisions of the Job Training Partnership Act (Pub. L. 97–300) Title IV, Part C, Veterans Employment Programs, (29 U.S.C. 1721).

(b) Purpose

The purpose of this NOAF is to fund projects and activities that enhance the employability of homeless veterans. Successful grantees will provide supportive services to this target group, with the focus on employment and training service, to enable these veterans to obtain jobs leading to economic self-sufficiency. Emphasis is also upon placing such veterans into transitional and permanent housing through coordination of community resources.

Under the ''continuum of care'' approach fostered by HUD and other Federal agencies, achievement of independent living is a major goal in serving persons who are homeless. This is linked to the fostering of employment opportunities in the community as well as the enhancement of the individual participants' skills. Services proposed by the applicant should result to the extent possible in homeless veterans

becoming successful wage earners and taxpayers. Specific activities proposed to achieve these goals and outcomes will be addressed in the narrative portion of the application.

(c) Funding Availability

Approximately $1.3 million is available under this NOAF. The funding source is the Supportive Housing Program authorized under Title IV, Subtitle c, of the Stewart B. McKinney Homeless Assistance Act. Project Funding will range from $50,000 to $100,000 per grant. Between 20 and 25 projects will be funded. Projects are targeted to begin on May 15, 1996, for a period of nine to twelve months.

(d) Eligible Applicants

Entities which are eligible to submit applications for funding to provide services to homeless veterans are (1) State and local public agencies which have demonstrated effectiveness in serving homeless veterans providing employment and training services and (2) nonprofit organizations who have demonstrated effectiveness in operating programs/projects serving homeless veterans by providing employment and training related services.

''Local public agency'' refers to any public agency of a general purpose in a political subdivision of a State which has the power to levy taxes, spend funds, and has general corporate and police powers. This typically refers to cities and counties.

All eligible applicants must demonstrate prior experience in successfully operating an employment and training program for homeless veterans; have proven capacity to manage Federal grants; and will provide the necessary linkages for services.

II. Application Requirements

The application instructions will include a more detailed program description, program guidelines, and approach to implementation. The application package will consist of a standard application for federal assistance form (SF 424), a narrative description of proposed activities and current services, a detailed budget, and required certification.

III. Applicant Selection Process

Criteria for identifying the most promising and effective proposals will be applied, and it is anticipated that between 20 and 25 applicants will be identified as potential grantees. Selection criteria will be based on the following core items: Need for the project—15 points; Quality of the project and employment and training goals—25 points; Capacity and experience in carrying out similar past projects—25 points, Community coordination and linkages, especially as they relate to HUD's ''continuum of care'' concept—20 points; and Cost effectiveness to include leveraging of other community resources—15 points. The application package provides more specific detail on the rating criteria. HUD and DOL staff will coordinate in the identification and selection of grantees to provide services to homeless veterans.

IV. HUD Reform Act Requirements

Technical Deficiencies

To the extent permitted by law, HUD and DOL may advise applicants of technical deficiencies in the applications and permit them to be corrected. Due to the requirements of the HUD Reform Act and DOL procurement policy Federal staff are limited in the assistance they are permitted to provide regarding applications for grants. The assistance and advice that can be provided includes such activities as explaining and responding to questions about program regulation. identification of those parts of an application that need substantive improvement, the dates by which decisions will be made and procedures that are required to be performed to process and application. This does not include advising the applicant how to make improvements.

In addition, any information published in the Federal Register and in this NOAF, and any information made public through a means other than the Federal Register, may be discussed.

Prohibition Against Advance Disclosure of Funding Decisions

The HUD Reform Act also restrains HUD employees involved in the review of applications from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage.

Accountability in the Provision of HUD Assistance: Documentation and Public Access Requirements

The HUD Reform Act contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance. The requirements of section 102 of the ACT apply to assistance awarded under this NOFA.

(I) Documentation and Public Access Requirements: documentation and other information regarding each application submitted pursuant to the NOAF will be sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 522).

(II) Disclosures: HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOAF. Update reports (also form 2880) will be made available along with the applicant disclosure reports, but in case for a period of less than three years

The U.S. Department of Labor Grant Officer will insure the integrity of this competition and will ensure awards are made in accordance with appropriate U.S. Department of Labor and U.S. Department of Housing and Urban Development regulations and the criteria specified above.

Signed at Washington, D.C., this 7th day of March, 1996.

Lawrence J. Kuss,

Grant Officer, Office of Procurement Services.

[FR Doc. 96–6256 Filed 3–14–96; 8:45 am]

BILLING CODE 4510–79–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: April 1–3, 1996; 8:30 a.m.–5:00 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 Faculty Early Career Development (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 11, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6184 Filed 3–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Computer and Computation Research; Notice of Meeting

Name: Special Emphasis Panel in Computer and Computation Research (#1192).

Date and Time: April 2 and 3, 1996; 8:30 a.m.–5:00 p.m.

Place: Rooms 1150 (4/2) and 370(3/3) National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. D. Helen Gill, Program Director, Software Engineering, Computer and Computation Research, Room 1145, NSF, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1911.

Purpose of Meeting: To provide advice and recommendations for the Software Engineering Program (SE) by providing review of a group of approximately 34 proposals with special attention to a joint NSF/ARPA emphasis for foundations for software engineering and evolutionary design of complex systems.

Agenda: To review and evaluate SE proposals as a part of the selection process for awards.

Reason for Closing: The proposals being reviewed included 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(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 11, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6186 Filed 3–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resources Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Human Resource Development (# 1199).

Date and Time: April 3–4, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 390, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Margrete S. Klein, Program Director, 4201 Wilson Blvd. Room 815, Arlington, VA 22230; Telephone: 306–1649.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Visiting Professorships for Women program (VPW).

Agenda: To review and evaluate VPW 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 11, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6183 Filed 3–14–96; 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 in Mathematical Sciences (1204).

Date and Time: April 1–2, 1996; 8:30 A.M. until 5:00 P.M.

Place: Rooms 330 & 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alvin I. Thaler, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1880.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Group Infrastructure Grants (GIG) 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 11, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6185 Filed 3–14–96; 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 in Mathematical Sciences (1204).

Date and Time: April 1–2, 1996; 8:30 a.m. until 5:00 p.m.

Place: Room 1060, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Joe Jenkins, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1870.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Analysis Program 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 11, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–6187 Filed 3–14–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: New.

2. The title of the information collection: Branch Technical Position on the Disposition of Cesium-137 Contaminated Emission Control Dust and Other Incident-Related Materials, 10 CFR 30.41(b)(7).

3. The form number if applicable: None.

4. How often the collection is required: Once for each licensee desiring to implement the disposition alternative described in the Technical Position.

5. Who will be required or asked to report: Any licensee desiring to implement the disposition alternative described in the Technical Position.

6. An estimate of the number of responses: Maximum of twelve initially—subsequently one per year.

7. The estimated number of annual respondents: Maximum of twelve initially—subsequently one per year. Responses would be one-time submittals based on the occurrence of an accidental melting of a radioactive cesium source.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 8 hours per licensee, per incident.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: The Branch Technical Position provides a generic assessment of the radiological impact of the transfer of radioactively-contaminated hazardous waste that has been generated at steel-producing facilities from the inadvertent meltings of sealed radiation sources. By providing a generic assessment that can be referenced and incorporated by the licensee in the request for approval of the transfer, the position will limit the licensee burden associated with such requests.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the OMB reviewer by April 15, 1996: Troy Hillier, Office of Information and Regulatory Affairs (3150–0017), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 7th day of March 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–6217 Filed 3–14–96; 8:45 am]

BILLING CODE 7590–01–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: Data Report on Spouse.

3. The Form number, if applicable: NRC Form 354.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC employees, NRC contractors, and NRC licensee access authorization applicants who marry after completing NRC's Personnel Security Forms; or marry after having been granted an NRC access authorization or employment clearance.

6. An estimate of the number of responses: 60.

7. The estimated number of annual respondents: 60.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 15 (.25 hours per response).

9. An indication of whether Section 3507(d), Public Law 104–13 applies: Does not apply. This action is not related to a proposed rule.

10. Abstract: Completion of the NRC Form 354 is a mandatory requirement for NRC employees, contractors, licensee applicants, and employee applicants who marry after submission of the Personnel Security Forms, or after receiving an access authorization or employment clearance to permit the NRC to assure there is no increased risk to the common defense and security.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW., (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by April 15, 1996. Peter Francis, Office of Information and Regulatory Affairs (3150–0026), NEOB–10202, Office of Management and Budget, Washington DC, 20503.

Comments can also be submitted by telephone at (202) 395–7318.

The NRC Clearance Officer is Brenda Jo Shelton (301) 415–7233.

Dated at Rockville, Maryland, this 8th day of March, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–6218 Filed 3–14–96; 8:45 am]

BILLING CODE 7590–01–P

Agency Information Collection Activities: Submission for OMB Review: Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of the information collection and solicitation of comments.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Information pertaining to the requirement to be submitted:

1. Type of submission, new, revision, or extension: Revision.
2. The title of the information collection: 10 CFR Parts 20 Standards for Protection Against Radiation.
3. The form number if applicable: Not applicable.
4. How often the collection is required: Annually.
5. Who will be required or asked to report: NRC licensees.
6. An estimate of the number of responses: 473.
7. The estimated number of annual respondents: 773.
8. An estimate of the total number of hours needed annually to complete the requirement or request: 209,605.
9. An indication of whether Section 3507(d), Public Law 104–13 applies: Not applicable.
10. Abstract: 10 CFR Part 20 establishes standards for protection against ionizing radiation resulting from activities conducted under licenses issued by the NRC. These standards in part require the establishment of radiation protection programs, the maintenance of radiation records, the recording of radiation received by workers, the reporting of incidents which could cause exposure to radiation and the submittal of an annual report to NRC of the results of individual monitoring. These mandatory requirements are needed to protect occupationally exposed individuals from undue risks of excessive exposure to ionizing radiation and to protect the health and safety of the public.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by April 15, 1996.

Peter Francis, Office of Information and Regulatory Affairs (3150–0014), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 7th day of March 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–6227 Filed 3–14–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–255]

Consumers Power Company Palisades Plant; Environmental Assessment and Finding Of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–20, issued to Consumers Power Company, (the licensee), for operation of the Palisades Plant, located in Van Buren County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The proposed action would modify the Palisades Facility Operating License by deleting references to specific amendments and specific revisions in the listed titles of the Physical Security Plan, the Suitability Training and Qualification Plan, and the Safeguards Contingency Plan, and make minor editorial changes to the license.

The proposed action is in accordance with the licensee's application for amendment dated October 17, 1995.

The Need for the Proposed Action

The proposed action is needed to: (1) Eliminate the implication that the Facility Operating License must be amended when any Physical Security Plan, Suitability Training and Qualification Plan, or Safeguards Contingency Plan revision is approved; and (2) eliminate redundancies and inconsistencies throughout the license.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed amendment will eliminate the need to amend the license whenever a security, training, or safeguards plan is revised, and provide for editorial changes which serve to make the license easier to read. The Palisades Facility Operating License still requires the licensee to implement and maintain in effect all provisions (including all approved amendments) of the Commission-approved Palisades Plant Physical Security Plan, Suitability Training and Qualification Plan, and the Plant Safeguards Contingency Plan. Examples of minor changes to the license include the use of consistent abbreviations for the Commission and the licensee, punctuation of series consistent with NUREG–1379, ''NRC Editorial Style Guide,'' and removal of paragraph titles for consistency in format.

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 Palisades Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on January 31, 1996, the staff consulted with the Michigan State official, Dennis Hahn of the Michigan Department of Public Health, Nuclear Facilities and Environmental Monitoring, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 17, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Van Wylen Library, Hope College, Holland, Michigan, 49201.

Dated at Rockville, Maryland, this 11th day of March 1996.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Acting Director Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation

[FR Doc. 96–6210 Filed 3–14–96; 8:45 am]

BILLING CODE 7590–01–P

Availability of Draft License Renewal Demonstration Program Site Visit Plan

The U.S. Nuclear Regulatory Commission (NRC) has developed a site visit plan for the License Renewal Demonstration Program (LRDP). A copy of the site visit plan has been placed in the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555.

For further information regarding the LRDP, contact Robert J. Prato, Office for Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–1147.

Dated at Rockville, Maryland, this 11th day of March 1996.

For the Nuclear Regulatory Commission.

Scott F. Newberry,

Director, License Renewal and Environmental Review Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–6209 Filed 3–14–96; 8:45 am]

BILLING CODE 7590–01–P

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 8.29, ''Instruction Concerning Risks from Occupational Radiation Exposure,'' describes the information that should be provided to workers by licensees about health risks from occupational exposure.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted 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 20555–0001.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides may be obtained free of charge by writing the Office of Administration, Attention: Distribution and Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax at (301)415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 27th day of February 1996.

For the Nuclear Regulatory Commission.

Joseph A. Murphy,

Executive Assistant to the Director, Office of Nuclear Regulatory Research.

[FR Doc. 96–6216 Filed 3–14–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three new deferrals and one revised deferral, totaling $3.6 billion, and four rescission proposals of budgetary resources, totaling $140 million.

These deferrals affect the International Security Assistance programs as well as programs of the Agency for International Development. The rescission proposals affect the Department of Defense.

William J. Clinton

The White House
February 23, 1996.

BILLING CODE 3110–01–P

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No	ITEM	Budgetary Resources
	Funds Appropriated to the President:	
	International Security Assistance:	
D96-1A	Economic support fund and International fund for Ireland	2,017,076
D96-4	Foreign military financing program	1,385,140
D96-5	Foreign military financing loan program	64,400
	Agency for International Development:	
D96-6	International disaster assistance, Executive	124,625
	Total, deferrals	3,591,241

Rescission No	ITEM	Budgetary Resources
	Department of Defense:	
	Research, Development, Test, and Evaluation:	
R96-4	Research, development, test, and evaluation, Army	19,500
R96-5	Research, development, test, and evaluation, Navy	35,000
R96-6	Research, development, test, and evaluation, Air Force	44,900
R96-7	Research, development, test, and evaluation, Defense-wide	40,600
	Total, rescissions	140,000

D96–1A

Supplemental Report

Report Pursuant to Section 1014(c) of Public Law 93–344

This report updates Deferral No. D96–1, which was transmitted to Congress on October 19, 1995.

This revision increases by $1,942,076,000 the previous deferral of $75,000,000 in the Economic support fund and International fund for Ireland, resulting in a total deferral of $2,017,076,000. This increase results from the deferral of funds made available by Public Law 104–107, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996.

Deferral No. 96-1A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority** (P.L. 104-107) ..... * $ 2,359,600,000
BUREAU: International Security Assistance	**Other budgetary resources** ..... * $ 207,792,051
Appropriations title and symbol: Economic support fund and International fund for Ireland 1/ 725/61037 726/71037* 72X1037	**Total budgetary resources** ..... * $ 2,567,392,051
	Amount to be deferred:
	Part of year ..... * $ 2,017,076,000 2/
	Entire year ..... $ _____
OMB identification code: 72-1037-0-1-152	**Legal authority (in addition to sec. 1013):**
Grant program: [X] Yes [ ] No	[X] Antideficiency Act
	[ ] Other _____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[X] Multi-year: * September 30, 1997 / September 30, 1996 (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Coverage:

Appropriation	Account Symbol	OMB Identification Code	Deferred Amount Reported
Economic Support Fund and International Fund for Ireland	725/61037	72-1037-0-1-152	$ 50,000,000
	72X1037	72-1037-0-1-152	$ 25,000,000
	* 726/71037	72-1037-0-1-152	* $ 1,942,076,000
			* $ 2,017,076,000

*JUSTIFICATION: The President is authorized by the Foreign Assistance Act of 1961, as amended, to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. Section 531(b) of the Act makes the Secretary of State, in cooperation with the Administrator of the Agency for International Development, responsible for policy decisions and justifications for economic support programs, including whether there will be an economic support program for a country and the amount of the program for each country.

Funds are deferred pending the development of country-specific plans that assure that aid is provided in an efficient manner and are reserved for unanticipated program needs. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

* Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1995 (D95-1B).
2/ This deferral amount has been reduced to $1,139,079,859 due to subsequent releases.

Deferral No. 96-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority**..... $ 3,208,390,000 (P.L. 104-107)
BUREAU: International Security Assistance	**Other budgetary resources**... $ _____
Appropriations title and symbol: Foreign military financing program (FMF) 1/ 1161082	**Total budgetary resources**..... $ 3,208,390,000
	Amount to be deferred: **Part of year**..... $ 1,385,140,000
	Entire year..... _____
OMB identification code: 11-1082-0-1-152	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other _____
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multi-year: _____ (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other _____

JUSTIFICATION: The President is authorized by the Arms Export Control Act to sell or finance by credit, loan guarantees, or grants, articles and defense services to friendly countries to facilitate the common defense. Under Section 2 of the Act, the Secretary of State, under the direction of the President, is responsible for sales made under this Act. Executive Order 11958 further requires the Secretary of State to obtain prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding consistency of transactions with national security and financial policies.

This action defers funds pending review of specific grants to eligible countries by the Departments of State, Treasury, and Defense. The review process will ensure that in each proposed program the proposed recipients are qualified and that the limits of available funds are not exceeded. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1995 (D95-2).

Deferral No. 96-5

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority** (P.L. 104-107) $ 64,400,000
BUREAU: International Security Assistance	**Other budgetary resources** $
Appropriations title and symbol: Foreign military financing loan program 1/ 1161085	**Total budgetary resources** $ 64,400,000
	Amount to be deferred: Part of year $ 64,400,000
	Entire year
OMB identification code: 11-1085-0-1-152	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multi-year: (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

JUSTIFICATION: The President is authorized by the Arms Export Control Act to sell or finance by credit, loan guarantees, or grants, articles and defense services to friendly countries to facilitate the common defense. Under Section 2 of the Act, the Secretary of State, under the direction of the President, is responsible for sales made under this Act. Executive Order 11958 further requires the Secretary of State to obtain prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding consistency of transactions with national security and financial policies.

As required by the Federal Credit Reform Act of 1990, this account records the subsidy costs associated with the direct loans obligated and loan guarantees for foreign military financing committed in FY 1992 and beyond. The foreign military financing credit program provides loans that finance sales of defense articles, defense services, and design and construction services to foreign countries and international organizations. The subsidy amounts are estimated on a present value basis.

This action defers funds pending review of specific loans to eligible countries by the Departments of State, Treasury, and Defense. The review process will ensure that in each proposed program the proposed recipients are qualified and that the limits of available funds are not exceeded. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1995 (D95-3).

Deferral No. 96-6

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority** (P.L. 104-107) $ 181,000,000
BUREAU: Agency for International Development	**Other budgetary resources** $ 23,366,672
Appropriations title and symbol: International disaster assistance, Executive, 1/ 11X1035	**Total budgetary resources** $ 204,366,672
	Amount to be deferred: Part of year $ 124,625,000 Entire year _____
OMB identification code: 11-1035-0-1-151	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act [ ] Other _____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multi-year: _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other _____

JUSTIFICATION: The International disaster assistance account allows the President to respond to humanitarian disaster relief efforts throughout the world. Funds are deferred pending the development of country-specific plans to ensure that aid is provided in an efficient manner to those most in need. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1995 (D95-5).

DEPARTMENT OF DEFENSE

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, development, test, and evaluation, Army

Of the funds made available under this heading in Public Law 104–61, $19,500,000 are rescinded.

Rescission Proposal No. R96-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... (P.L. 104-61) $ 4,785,622,000
BUREAU: Research, Development, Test, and Evaluation	Other budgetary resources.. $ _____
Appropriations title and symbol: Research, development, test, and evaluation, Army 216/72040	Total budgetary resources... $ 4,785,622,000
	Amount proposed for rescission..... $ 19,500,000
OMB identification code: 21-2040-0-1-999	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 1997 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for basic and applied scientific research and development test, and evaluation, including maintenance, rehabilitation, lease and operation of facilities and equipment. The funding proposed for rescission is available due to revised economic assumptions.

ESTIMATED PROGRAM EFFECT: The Department of the Army's ability to successfully accomplish its mission would not be affected by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
5,082,522	5,071,407	-11,115	-6,630	-1,034	-351	-156	-98

DEPARTMENT OF DEFENSE

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, development, test, and evaluation, Navy

Of the funds made available under this heading in Public Law 104–61, $35,000,000 are rescinded.

Rescission Proposal No. R96-5

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 8,581,223,000 (P.L. 104-61)
BUREAU: Research, Development, Test, and Evaluation	Other budgetary resources.. $ _____
Appropriations title and symbol: Research, development, test, and evaluation, Navy 176/71319	Total budgetary resources... $ 8,581,223,000
	Amount proposed for rescission..... $ 35,000,000
OMB identification code: 17-1319-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 1997 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease and operation of facilities and equipment. The funding proposed for rescission is available due to revised economic assumptions.

ESTIMATED PROGRAM EFFECT: The Department of the Navy's ability to successfully accomplish its mission would not be affected by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
8,397,081	8,378,181	-18,900	-11,340	-3,150	-700	-385	-140

DEPARTMENT OF DEFENSE

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, development, test, and evaluation, Air Force

Of the funds made available under this heading in Public Law 104–61, $44,900,000 are rescinded.

Rescission Proposal No. R96-6

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense **BUREAU:** Research, Development, Test and Evaluation **Appropriations title and symbol:** Research, development, test and evaluation, Air Force 576/73600	New budget authority..... $ 12,872,181,000 (P.L. 104-61) Other budgetary resources.. $ 2,100,000,000 Total budgetary resources... $ 14,972,181,000 Amount proposed for rescission..... $ 44,900,000
OMB identification code: 57-3600-0-1-051 **Grant program:** ☐ Yes ☒ No	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 1997 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease and operation of facilities and equipment. The funding proposed for rescission is available due to revised economic assumptions.

ESTIMATED PROGRAM EFFECT: The Department of the Air Force's ability to successfully accomplish its mission would not be affected by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
11,953,848	11,932,969	-20,879	-17,421	-3,996	-1,616	-494	-180

DEPARTMENT OF DEFENSE

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, development, test, and evaluation, Defense-wide

Of the funds made available under this heading in Public Law 104–61, $40,600,000 are rescinded.

Rescission Proposal No. R96-7

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... (P.L. 104-61) $ 9,269,414,000
BUREAU: Research, Development, Test, and Evaluation	Other budgetary resources.. $ 216,265,000
Appropriations title and symbol: Research, development, test, and evaluation Defense-wide 976/70400	Total budgetary resources... $ 9,485,679,000
	Amount proposed for rescission..... $ 40,600,000
OMB identification code: 97-0400-0-1-051	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: September 30, 1997 (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease and operation of facilities and equipment. The funding proposed for rescission is available due to revised economic assumptions.

ESTIMATED PROGRAM EFFECT: The DoD's ability to successfully accomplish its mission would not be affected by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
9,055,535	9,037,874	-17,661	-16,240	-4,872	-609	-609	-162

[FR Doc. 96–4995 Filed 3–14–96; 8:45 am]
BILLING CODE 3110–01–C

Budget Rescissions and Deferrals

To The Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one revised deferral, totaling $91 million, and two proposed rescissions of budgetary resources, totaling $15 million.

The deferral affects the Department of State U.S. emergency refugee and migration assistance fund. The rescission proposals affect the Department of Agriculture and the General Services Administration.

William J. Clinton

The White House,
March 5, 1996

BILLING CODE 3110–01–P

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

Deferral No.	ITEM	Budgetary Resources
	Department of State:	
	Other:	
D96-3A	United States emergency refugee and migration assistance fund	91,031

Rescission No.	ITEM	Budgetary Resources
	Department of Agriculture:	
	Cooperative State Research, Education, and Extension Service:	
R96-8	Buildings and facilities	12,000
	General Services Administration:	
	Real Property Activities:	
R96-9	Federal buildings fund	3,500
	Total, rescissions	15,500

Supplemental Report

Report Pursuant to Section 1014(c) of Public Law 93–344

This report updates Deferral No. D96–3, which was transmitted to Congress on October 19, 1995.

This revision increases by $50,545,457 the previous deferral of $40,486,000 in the United States emergency refugee and migration assistance fund, resulting in a total deferral of $91,031,457. This increase results from the deferral of funds made available by Public Law 104–107, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, and from a greater-than-anticipated level of unobligated funds being carried over from FY 1995.

Deferral No. 96-3A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State	**New budget authority** (P.L. 104-107) * $ 50,000,000
BUREAU: Other	**Other budgetary resources** * $ 41,031,457
Appropriation title and symbol: United States emergency refugee and migration assistance fund 1/ 11X0040	**Total budgetary resources** * $ 91,031,457
	Amount to be deferred: Part of year * $ 91,031,457 2/ Entire year $ _____
OMB identification code: 11-0040-0-1-151	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multi-year: _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other _____

JUSTIFICATION: Section 501(a) of the Foreign Relations Authorization Act of 1976 (Public Law 94-141) and Section 414(b) (1) of the Refugee Act of 1980 (Public Law 96-212) amended Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

These funds have been deferred pending Presidential decisions required by Executive Order No. 11922. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1995 (D95-7).
2/ This deferral amount has been reduced to $90,486,000 due to subsequent releases.

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

Buildings and facilities

Of the funds made available under this heading in Public Law 104–34, $12,000,000 are rescinded.

Rescission Proposal No. R96-8

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	New budget authority..... (P.L. 104-34) $ 57,838,000
BUREA Cooperative State Research, Education, and Extension Service	Other budgetary resources.. $ _____
Appropriations title and symbol: Buildings and Facilities 12X1501	Total budgetary resources... $ 57,838,000
	Amount proposed for rescission..... $ 12,000,000
OMB identification code: 12-1501-0-1-352	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multi-year: _____ (expiration date) ☒ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: This appropriation provides grants to States and other eligible recipients for the acquisition of land, as well as for the construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities to carry out agricultural research, extension, and teaching programs.

This proposal reflects savings from the elimination of research facility construction projects earmarked for specific universities. These projects were not selected based on a nationally competitive, peer-reviewed process, but rather were selected to address local priorities.

ESTIMATED PROGRAM EFFECT: There would be minimal nationwide effect. Agribusiness and State and local goverments would have to increase their support for local or State projects that they would like to see completed. The Department's mission would not be affected by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
52,137	51,537	-600	-1,200	-3,600	-4,200	-2,400	—

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

Federal buildings fund

Of the funds made available for advance design under this heading in Public Law 104–52, $3,500,000 are rescinded: Provided, That the aggregate amount made available to the Fund shall be $5,062,649,000.

Rescission Proposal No. R96-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: General Services Administration	New budget authority..... $ _____
BUREAU: Real Property Activities	Other budgetary resources.. $ 7,873,093,893
Appropriations title and symbol: Federal buildings fund 47X4542	Total budgetary resources... $ 7,873,093,893
	Amount proposed for rescission..... $ 3,500,000
OMB identification code: 47-4542-0-4-804	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other _____
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multi-year: _____ (expiration date) ☒ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: The Federal Buildings Fund finances the activities of the Public Buildings Service, which provides space and services for Federal agencies in a relationship similar to that of landlord and tenant. The Fund, established in 1975, replaces direct appropriation by using income derived from rent assessments, which approximate commercial rates for comparable space and services. The Federal Buildings Fund program consists of four activities financed from rent charges: (1) repairs and alternations; (2) installation acquisition payments; (3) rental of space; and, (4) building operations. This proposed rescission would reduce new obligational authority in the repairs and alternations activity, advance design line item, consistent with the President's policies.

ESTIMATED PROGRAM EFFECT: The General Services Administration's ability to accomplish its mission successfully would not be affected by this rescission proposal.

OUTLAY EFFECT: (in thousands of dollars):

FY 1996 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
216,959	214,859	-2,100	-770	-385	-245	—	—

[FR Doc. 96–6197 Filed 3–14–96; 8:45 am]
BILLING CODE 3110–01–C

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection:

Application for Reimbursement for Hospital Insurance Services in Canada; OMB 3220–0086.

Under Section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the Medicare program for persons covered by the railroad retirement system. Payments are provided, under Section 7(d)(4) of the RRA, for medical services furnished in Canada to the same extent as for those furnished in the United States. However, payments for the services furnished in Canada are made from the Railroad Retirement Account rather than from the Federal Hospital Insurance Trust Fund, with the payments limited to the amount by which insurance benefits under Medicare exceed the amounts payable under Canadian Provincial plans.

Form AA–104, Application for Canadian Hospital Benefits Under Medicare—Part A, is provided by the RRB for use in claiming benefits for covered hospital services received in Canada. The form obtains information needed to determine eligibility for, and the amount of any reimbursement due the applicant. One response is requested of each respondent. Completion is required to obtain a benefit.

The RRB proposes minor editorial changes to RRB Form AA–104.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form No.(s)	Annual responses	Time (min.)	Burden (hrs.)
AA–104	45	10	8

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–6169 Filed 3–14–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 21813; 812–9052]

Twentieth Century Blended Portfolios, Inc., et al.; Notice of Application

March 11, 1996.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Twentieth Century Blended Portfolios, Inc. (formerly named Twentieth Century Strategic Portfolios, Inc.) (''Blended Portfolios''), Twentieth Century Capital Portfolios, Inc., Twentieth Century Investors, Inc., Twentieth Century Premium Reserves, Inc., Twentieth Century World Investors, Inc., and Investors Research Corporation.

RELEVANT ACT SECTIONS: Order requested under section 6(c) from section 12(d)(1) and under sections 6(c) and 17(b) from section 17(a).

SUMMARY OF APPLICATIONS: Applicants request an order to permit Blended Portfolios to implement a ''fund of funds'' arrangement and acquire up to 100% of the voting shares of any Twentieth Century Fund.

FILING DATE: The application was filed on June 10, 1994, and amended on November 10, 1994, October 20, 1995, and February 8, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1996, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Twentieth Century Tower, 4500 Main Street, Kansas City, Missouri 64111.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582 (Division of Investment Management, Office of Regulatory Policy), 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.

Applicants' Representations

1. Blended Portfolios intends to register under the Act as an open-end management investment company and file a registration statement for the sale of its shares under the Securities Act of 1933. Applicants anticipate that Blended Portfolios will initially consist of one series or portfolio, and that additional series or portfolios may be added in the future (the ''Portfolios''). Investors Research will act as investment adviser to Blended Portfolios, but it is currently contemplated that none of the Portfolios will be charged an advisory fee. Each Portfolio will invest substantially all of its assets in shares of the Twentieth Century Funds. Investments may also be made in money market instruments for

cash management and for temporary defensive purposes. The ''Twentieth Century Funds'' are defined for purposes of the application as Twentieth Century Capital Portfolios, Inc., Twentieth Century Investors, Inc., Twentieth Century Premium Reserves, Inc., Twentieth Century World Investors, Inc., and any other open-end management investment company that is a member of the same ''group of investment companies'' as defined in rule 11a–3 under the Act, as Blended Portfolios. The ''Underlying Funds'' are defined as the Twentieth Century Funds and series thereof in which Blended Portfolios will invest.

2. Investors Research is registered as an investment adviser under the Investment Advisers Act of 1940. As of December 31, 1995, Investors Research was investment adviser to five investment companies comprised of 27 series and a number of institutional accounts, with a total of approximately $34.0 billion under management. Each of the currently operating series included in the Twentieth Century Funds is an open-end management investment company advised and managed by Investors Research.

3. Blended Portfolios has been designed to provide investors with one or more diversified investment programs tailored to meet particular investment goals and risk tolerances. Blended Portfolios is intended for persons who are able to identify their long-term goals and risk tolerances but are not comfortable deciding which specific funds to choose at any particular time to seek to achieve those goals. Applicants believe that persons who have chosen the Twentieth Century family of mutual funds but are uncertain as to the specific funds in which to invest will welcome Blended Portfolios.

4. Each Portfolio will have an investment objective which may not be changed except by a vote of a majority of the Portfolio's outstanding voting securities (as defined in the Act). Allocations of a Portfolio's assets among Underlying Funds will be made consistent with its investment objective as described in the applicable prospectus. For example, it is anticipated that an ''aggressive'' Portfolio would, under normal circumstances, invest substantially all of its assets in Underlying Funds that invest in equity securities.

5. The Underlying Funds in which a Portfolio may invest will also be described in the Portfolio's prospectus. To the extent the identity of the Underlying Funds in which the Portfolio may invest changes over time (such as through the inclusion of new Underlying Funds), shareholders and investors will receive disclosure of such changes.

6. While applicants currently anticipate that Blended Portfolios and the Underlying Funds will be sold without any front-end sales charge, will not be subject to any contingent deferred sales charge, and will not be subject to any rule 12b–1 fees, applicants reserve the right to charge sales charges and service fees in the future, subject to condition five, below, and any other provisions or limitations of applicable law.

7. The Portfolios will not bear the costs of audit expenses, legal expenses, transfer agency, shareholder servicing and other administrative expenses, or the expenses of registering Blended Portfolios under federal and state securities laws. These expenses will be borne by Investors Research. The Portfolios will, however, bear the costs of brokerage, taxes, interest, fees and expenses of non-interested directors (including counsel fees) and extraordinary expenses, none of which expenses are expected to be significant.

8. The principal ''expenses'' of the Portfolios will be the indirect expenses incurred through investments in the Underlying Funds, which consist primarily of the unified fees paid by the Underlying Funds (''Unified Fees'') to investors Research. Each of the Underlying Funds currently pays, or it is expected will pay, Investors Research a Unified Fee pursuant to a management agreement between Investors Research and the respective fund.[1] Other than the Unified Fee, no payments are made by an Underlying Fund to Investors Research. In return for the Unified Fee, Investors Research provides investment advisory services and pays all expenses of the Underlying Funds except for brokerage, taxes, interest, fees and expenses of non-interested directors (including counsel fees) and extraordinary expenses.[2]

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provisions of the Act or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants request an order under section 6(c) exempting them from section 12(d)(1) to the extent necessary to permit Blended Portfolios to purchase shares of the Underlying Funds in excess of the percentage limitations of section 12(d)(1) (A) and (B). Applicants request that the relief also apply to any future ''fund-of-funds'' that operates in all material respects in accordance with the representations contained in the application, complies with the conditions to the requested order, and is a member of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act, as Blended Portfolios.

4. Section 12(d)(1) was intended to prevent unregulated pyramiding of investment companies and the abuses that might arise from such pyramiding, including layering of fees and undue influence by the fund of funds over the management of the underlying funds. Applicants believe that none of the dangers which were of concern to Congress in drafting section 12(d)(1) are present with respect to the proposed Blended Portfolios arrangement. As previously indicated Investors Research currently intends to provide advisory services to Blended Portfolios without charging an investment advisory fee. In the event an investment advisory fee were to be proposed for a Portfolio, such advisory fee may only be adopted subject to the requirements of condition four and section 15 of the Act. In the event that sales charges or service fees are charged with respect to the shares of Blended Portfolios, such charges and/or

[1] Investors Research may voluntarily waive, as it has waived in certain cases, all or any portion of the Unified Fee with respect to some of the Underlying Funds.

[2] The expenses of the Underlying Funds paid by Investors Research include audit expenses, legal expenses, transfer agency, shareholder servicing and other administrative expenses, and the expenses of registering the funds under federal and state securities laws.

fees shall, when aggregated with any sales charges and service fees paid by Blended Portfolios with respect to any Underlying Fund, shall not exceed the limits set forth in Article III, Section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the ''NASD'').

5. Investors Research will be the adviser to the Underlying Funds as well as the Blended Portfolios. Investors Research is governed by its obligations to the Underlying Funds and their shareholders and any allocation or reallocation by Investors Research of a Portfolio's assets among Underlying Funds would be required to be made in accordance with those obligations. Furthermore, Investors Research's own self-interest will prompt it to maximize benefits for all shareholders, and not disrupt the operations of any of Blended Portfolios or the Underlyng Funds.

6. Each Portfolio's shareholders will benefit from the allocation strategy of Investors Research, a strategy that they would not receive if they invested in the Underlying Funds directly. Additionally, in return for the indirect expenses of investing in the Underlying Funds, the Portfolios and their shareholders will benefit to the same extent as other shareholders in the Underlying Funds. The Underlying Funds and their shareholders will not be negatively affected as a result of investments made by a Portfolio. As there are potential benefits to shareholders of Blended Portfolios, and no additional costs to shareholders of the Underlyng Funds, applicants believe that there are net benefits to investors from this transaction. Accordingly, applicants believe that it is appropriate for the SEC to exercise its authority under section 6(c) to exempt applicants from the limitations of section 12(d)(1) to the extent requested.

B. Section 17(a)

1. Sections 17(a)(1) and 17(a)(2) of the Act provide, in substance, that it is unlawful for any affiliated person of a registered investment company, acting as principal, to sell any security to, or purchase any security from, such investment company.

2. Section 17(b) of the Act provides that a person may file with the SEC an application for an order exempting a proposed transaction from section 17(a) and that the SEC shall issue such order if it is shown that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Under the proposed structure, Blended Portfolios and the Underlying Funds may be deemed to be affiliates of one another. The sale by the Underlying Funds of their shares to Blended Portfolios could thus be deemed to be principal transactions between affiliated persons under section 17(a). Applicants request an exemption under sections 6(c) and 17(b) from section 17(a) to the extent necessary to permit sales by the Underlying Funds of their shares to Blended Portfolios.[3] Applicants believe that the standards of sections 6(c) and 17(b) are met and that such relief should be granted for the reasons set forth under the discussion of section 12(d)(1).

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Blended Portfolios and each Underlying Fund will be part of the same ''group of investment companies'' as defined in rule 11a–3 under the Act.

2. No Underlying Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the directors of Blended Portfolios will not be ''interested persons'' as defined in section 2(a)(19) of the Act (the ''Independent Directors'').

4. Before approving any advisory contract under section 15 of the Act, the directors of Blended Portfolios, including a majority of the Independent Directors, shall find that the advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of Blended Portfolios.

5. Any sales charges or service fees charged with respect to shares of Blended Portfolios, when aggregated with any sales charges and service fees paid by Blended Portfolios with respect to any Underlying Fund, shall not exceed the limits set forth in Article III, section 26, of the Rules of Fair Practice of the NASD.

6. Applicants will provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: Monthly average total assets for each Portfolio and each of its Underlying Funds; monthly purchases and redemptions (other than by exchange) for each Portfolio and each of its Underlying Funds; monthly exchanges into and out of each Portfolio and each of its Underlying Funds; month-end allocations of each Portfolio's assets among its Underlying Funds; annual expense ratios for each Portfolio and each of its Underlying Funds; and a description of any vote taken by the shareholders of any Underlying Fund, including a statement of the percentage of votes cast for and against the proposal by Blended Portfolios and by the other shareholders of the Underlying Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of Blended Portfolios (unless the Chief Financial Analyst shall notify Blended Portfolios or Investors Research in writing that such information need no longer be submitted).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 96–6181 Filed 3–14–96; 8:45 am]

BILLING CODE 8010–01–M

[3] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. See Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) can be used to grant relief from section 17(a) for an ongoing series of future transactions.

[Release No. 34–36950; File No. SR–MSRB–96–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G–38 on Consultants

March 11, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, notice is hereby given that on February 29, 1996,[1] the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. The purpose of

[1] On March 7, 1996, the MSRB filed Amendment No. 1 with the Commission. Amendment No. 1 was a minor technical amendment, the text of which may be examined in the Commission's Public Reference Room. See Letter from Jill C. Finder, Assistant General Counsel, MSRB, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 7, 1996.

the proposed rule change is to provide interpretative guidance concerning rule G–38 on consultants. The Board has designated this proposal as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board under Section 19(b)(3)(A) of the Act, which renders the proposal effective upon receipt of this filing by the Commission. 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 Board is filing the proposed rule change to provide interpretative guidance concerning rule G–37 on political contributions and prohibitions on municipal securities business. Proposed new language is in italics.

* * * * *

Rule G–38 Questions and Answers

Consultants

1. Q: Who is considered a ''consultant'' pursuant to rule G–38?

A: Rule G–38(a)(i) defines ''consultant'' as any person used by a dealer to obtain or retain municipal securities business[2] *through direct or indirect communication by such person with an issuer on behalf of such dealer where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person. The definition specifically excludes ''municipal finance professionals'' of the dealer, as that term is defined in rule G–37(g)(iv), because such individuals are covered by the requirements of rule G–37. The definition also excludes any person whose sole basis of compensation from the dealer is the actual provision of legal, accounting or engineering advice, services or assistance in connection with the municipal securities business that the dealer is seeking to obtain or retain.*

2. Q: What are examples of persons who would be excluded from the definition of consultant for providing legal, accounting or engineering advice, services or assistance to a dealer in connection with municipal securities business?

A: The exclusion would apply, for example, to a lawyer retained to conduct a legal analysis on a particular transaction contemplated by the dealer, or to review local regulations; an accountant retained to conduct a tax analysis or to scrutinize financial reports; or an engineer retained to perform a technical review or feasibility study. The exemption is intended to ensure that professionals who are engaged by the dealer solely to perform substantive work in connection with municipal securities business are not brought within the definition of consultant as long as their compensation is in consideration of only those professional services actually provided in connection with such municipal securities business.

3. Q: Would an attorney hired by a dealer to conduct a legal analysis on a transaction being contemplated by the dealer and then subsequently paid a finder's fee by the dealer for bringing that municipal securities business to the dealer be considered a consultant?

A: Yes, any attorney or other professional used by the dealer as a ''finder'' for municipal securities business is considered a consultant pursuant to rule G–38.

4. Q: Does the definition of consultant also encompass third parties who initiate contact with dealers to offer their services in obtaining or retaining municipal securities business through direct or indirect communication by such person with an issuer official?

A: Yes. The definition of consultant in rule G–38 does not distinguish between instances in which the dealer initiates contact with a third party to act as a consultant and instances in which the third party initiates contact.

5. Q: Does the definition of consultant encompass a lobbyist hired by the dealer if the only activity the lobbyist engages in on behalf of the dealer is to lobby state legislators for legislation which grants issuers authority to issue certain types of municipal securities?

A: No; however, if the lobbyist is also used by the dealer to obtain or retain municipal securities business through direct or indirect communication with an issuer on the dealer's behalf where the communication is undertaken for payment from the dealer or any other person, then the lobbyist would meet the definition of consultant.

6. Q: If an affiliated company of a bank introduces one of its customers (a municipal issuer) to the bank's dealer department for purposes of engaging in municipal securities business, and the dealer pays the affiliated company for this activity, would the affiliated company be a ''consultant'' under rule G–38?

A: Any person used by a dealer as a ''finder'' for municipal securities business would be considered a consultant under rule G–38. In this example, if the affiliated company is sued by the bank dealer to obtain or retain municipal securities business through direct or indirect communication by the affiliated company with the issuer on the dealer's behalf, and the affiliated company does so with the understanding of receiving payment from the dealer, then the affiliated company would be a consultant.

7. Q: Does the definition of consultant encompass a person retained by an affiliate or parent of a dealer if any portion of that person's activity relates to efforts to obtain municipal securities business for the dealer?

A: Yes, because the definition of consultant includes those who receive payment from the dealer or ''any other person'' for use in obtaining or retaining municipal securities business through communication with an issuer on behalf of the dealer. In such instances, the dealer would need to be in compliance with the provisions of rule G–38, as discussed below.

Consultant Agreement

8. Q: Rule G–38 requires dealers to evidence their consulting arrangements in writing. What must be included in this Consultant Agreement?

A: The Consultant Agreement must include, at a minimum, the name, company, role and compensation arrangement of each consultant used by the dealer.

9. Q: When must the dealer enter into the Consultant Agreement?

A: The Consultant Agreement must be entered into before the consultant engages in any direct or indirect communication with an issuer on the dealer's behalf.

Disclosure to Issuers

10. Q: Does rule G–38 require a dealer to disclose its consulting arrangements to an issuer with which it is engaging or seeking to engage in municipal securities business?

A: Yes; such disclosures must be in writing.

11. Q: What must be included in these written disclosures to issuers?

A: The written disclosures must include, at a minimum, the name, company, role and compensation arrangement with the consultant or consultants.

12. Q: When are dealers required to make their written disclosures concerning consultants to issuers?

A: The written disclosures must be made prior to the issuer's selection of any dealer in connection with the municipal securities business being sought, regardless of whether the dealer making the disclosure ultimately is the one to obtain or retain that business.

Disclosure to the Board

13. Q: Are dealers required to submit any reports concerning their consultants to the Board?

A: Yes. Dealers must submit to the Board, on a quarterly basis, reports of all consultants used by the dealers. These reports must be submitted on Form G–37/G–38.

14. Q: What information concerning consultants must be included on Form G–37/G–38?

A: For each consultant, dealers must report, in the prescribed format (refer to Form G–37/G–38), the consultant's name, company, role and compensation arrangement, as well as the dollar amount of any payment made to the consultant during the quarterly reporting period. If any payment made during the reporting period is related to the consultant's efforts on behalf of the dealer which resulted in particular municipal securities business, whether the municipal securities business was completed during that or a prior reporting period, then the dealer must separately identify that business and the dollar amount of the payment.

15. Q: If a dealer includes information concerning a particular consultant on a Form G–37/G–38 submission, must the dealer

[2] ''Municipal securities business'' as used in rule G–38 has the same meaning as in rule G–37(g)(vii): (i) negotiated underwriting (if the dealer is a manager or syndicate member); (ii) private placement; (iii) the provision of financial advisory or consultant services to or on behalf of an issuer (on a negotiated bid basis); or (iv) the provision of remarketing agent services (on a negotiated bid basis).

continue to submit information concerning this consultant on subsequent Form G–37/G–38 submissions?

A. As long as the dealer continues to use the consultant to obtain or retain municipal securities business (i.e., has a continuing arrangement with the consultant), the dealer must report information concerning such consultant every quarter, whether or not compensation is paid to the consultant during the reporting period.

16. Q: What are the due dates for the submission of Form G–37/G–38?

A: The quarterly due dates are within 30 calendar days after the end of each calendar quarter (i.e., January 31, April 30, July 31 and October 31).

17. Q: Will the Board accept fax transmissions of Form G–37/G–38?

A: No. Dealers are required to submit Forms G–37/G–38 to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending.

18. Q: Are Forms G–37/G–38 submitted by dealers available to the public for review?

A: Yes. These forms are available to the public for inspection and photocopying at the Board's Public Access Facility in Alexandria, Virginia, and for review by the agencies charged with enforcement of Board rules.

19. Q: If a dealer has adopted a voluntary ban on political contributions and/or does not use consultants, is the dealer still required to submit a Form G–37/G–38?

A: Dealers are required to submit a Form G–37/G–38 to the Board if ANY one of the following occurred: (i) reportable political contributions or payments to political parties were made during the reporting period: (ii) the dealer engaged in municipal securities business (as defined in rule G–37(g)(vii)) during the reporting period; or (iii) the dealer used consultants during the reporting period (i.e., new or continuing relationships with consultants). Dealers are not required to submit a Form G–37/G–38 for a reporting period if all three of the following conditions are met for that particular reporting period: (i) there were no reportable political contributions or payments made to political parties; (ii) the dealer did not engage in municipal securities business; and (iii) the dealer did not use consultants.

Recordkeeping Requirements

20. Q. What records concerning consultants must dealers maintain?

A: Rule G–8, on books and records, required dealers to maintain: (i) a listing of the name, company, role and compensation arrangement of each consultant; (ii) a copy of each Consultant Agreement referred to in rule G–38(b); (iii) a listing of the compensation paid in connection with each such Consultant Agreement; (iv) where applicable, a listing of the municipal securities business obtained or retained through the activities of each consultant; (v) a listing of issuers and a record of disclosures made to such issuers, pursuant to rule G–38(c), concerning each consultant used by the dealer to obtain or retain municipal securities business with each such issuer; and (vi) the date of termination of any consultant arrange.

21. Q. How long must dealers maintain their records concerning consultants?

A: Rule G–9, on preservation of records, requires dealers to maintain their records concerning consultants for a six-year period.

* * * * *

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 Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comment it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board 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

On January 17, 1996, the Commission approved Board rule G–38 on consultants.[3] The Board adopted the rule because it was concerned about dealers' increasing use of consultants to obtain or retain municipal securities business, notwithstanding the requirements of the rule G–37 on political contributions and prohibitions on municipal securities business, rule G–20 on gifts and gratuities, and rule G–17 on fair dealing. Rule G–38 requires dealers to disclose information about their consultant arrangements to issuers and the public. Recently, the Board has received inquiries from market participants concerning the applicability of various provisions of the rule. In order to assist the municipal securities industry and, in particular, brokers, dealers and municipal securities dealers in understanding and complying with the provisions of the rule G–38, the Board has determined to publish this notice of interpretation which sets forth, in question-and-answer format, general guidance on rule G–38. The Board will continue to monitor the application of rule G–38, and, from time to time, will publish additional notices of interpretations, as necessary.

The Board believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change would apply equally to all brokers, dealers and municipal securities dealers, the Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement 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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) or Rule 19b–4 thereunder because the rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[3] Securities Exchange Act Release No. 36727 (Jan. 17, 1996), 61 FR 1955 (Jan. 24, 1996). The rule will become effective on March 18, 1996.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Board. All submissions should refer to File No. SR–MSRB–96–02 and should be submitted by April 5, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6233 Filed 3–14–96; 8:45 am]

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[Release No. 34–36942; File No. SR–NSCC–96–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Establish the Daily Price and Rate File Phase of the Mutual Fund Profile Service

March 7, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 19, 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 27, 1996, NSCC filed an amendment to the proposed rule change.[2] The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to amend NSCC's rules to establish a mutual fund profile service (''MFPS'') and to seek approval for implementation of the first phase of MFPS.

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 establish MFPS for use by participating NSCC members and to implement the first phase of MFPS, the daily price and rate file. MFPS will provide an automated method of transmitting and receiving information pertaining to mutual funds through a centralized and standardized facility on a timely basis. MFPS will improve the flow of such data among participating NSCC members and will enable such members to make additions, changes, corrections, or deletions to such data as needed.

NSCC members will join the MFPS either as MFPS data providers, MFPS data receivers, or both. MFPS data receivers most likely will consist of broker-dealers. Mutual funds and fund complexes are likely to be MFPS data providers but in many cases also may participate as MFPS data receivers. MFPS data providers will transmit electronically MFPS data to NSCC in a format developed by NSCC. MFPS data providers will have the option as to the amount of data pertaining to them to include in MFPS. NSCC then will group and consolidate MFPS data to fit the format developed for distribution and will transmit the data to MFPS users. MFPS data will be transmitted between NSCC and MFPS users via mainframe and/or personal computer interfaces based on users' preferences, needs, and capabilities. At this time, NSCC has not determined whether an agreement will be necessary to permit an NSCC member to participate in MFPS.

To ensure that MFPS users are capable of adequately using the service, NSCC initially proposes to limit the scope of the MFPS data to include only daily prices and rates of funds. MFPS users will be able to deliver data relating to daily prices and daily dividend accrual rates for individual securities for a specific date. NSCC will consolidate all price and rate information received from MFPS data providers on a given day into a daily price and rate file and will distribute such file to MFPS data receivers. This file also will report price and rate corrections to users as they are identified by a fund. NSCC will maintain historical data within the database for a specified period of time.

Currently, NSCC members obtain fund price and rate information in a variety of ways including paper transmittals, facsimile, and telephone. NSCC believes that such methods of obtaining information generally are time consuming, labor intensive, and prone to error. Furthermore, NSCC believes the lack of automation and standardization of the process by which information is exchanged between NSCC members delays the receipt of time-sensitive data and contributes to processing difficulties resulting from incorrect or incomplete information. NSCC believes that MFPS will support and will expedite the processing of mutual fund transactions at the firms and funds.

Other components of MFPS will be implemented in one or more phases after approval of the daily price and rate file.[4] These other components will include (i) the ''member profile'' which will maintain data for each NSCC member participating in MFPS, including personnel contacts, telephone numbers, addresses, commissions payment procedures, and the processing capabilities and data for NSCC members which act as agents for other NSCC members; (ii) the ''security issue profile'' which will maintain information on each individual fund maintained in the profile, including minimum purchase or maintenance requirements, fund features, and various fund processing characteristics; and (iii) the ''distribution declaration information profile'' which will include projected and/or actual record dates, ex-dates, reinvestment dates, and payable dates for fund dividend and capital gain payments and also may include Rule 12b–1 plan and other commission payout information. NSCC anticipates that member profile information and security issue profile information will be distributed only to specific NSCC members or to all NSCC members, depending on the instructions of the MFPS data provider.

Due to the limited number of initial MFPS users and the limited value of the initial services, NSCC will not charge fees for MFPS at this time. When NSCC believes it is providing a value added service, NSCC will file with the Commission an appropriate rule change

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Julie Beyers, Associate Counsel, NSCC, to Christine Sibille, Division of Market Regulation, Commission (February 23, 1996).

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] Pursuant to Section 19(b)(2) of the Act, NSCC will be required to file with the Commission proposed rule changes regarding all future phases of MFPS prior to the implementation of each such phase.

proposal to implement fees and charges for MFPS.

NSCC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.[5]

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the rule filing 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

NSCC solicited comments from its ICI Broker/Dealer Committee and its Mutual Fund Profile Working Committee on July 5, August 18, November 9, and November 21, 1995. NSCC received letters from Colonial Investors Service Center, Inc. (dated July 21, 1995), AIM Fund Services, Inc. (Dated July 24, 1995), Edgewood Services, Inc. (dated July 31, 1995), Merrill Lynch (dated July 31, 1995), Securities Industry Software Corporation (dated July 31, 1995), A.G. Edwards & Sons, Inc. (dated August 4, 1995), DST Systems Inc. (dated September 11, 1995) and Funds Associates Ltd. (''FAL'') (dated September 22, 1995). Each responding firm expressed in its letter its commitment to participate in and devote resources to the development of MFPS. In addition, NSCC received a request from A.G. Edwards & Sons, Inc. (dated August 9, 1995) that additional information be included in MFPS. NSCC is in the process of determining whether to include this information, which does not affect the implementation of the daily price and rate file phase of MFPS.

NSCC also received a memorandum from FAL, dated December 1, 1995, in which FAL requested that S.W.I.F.T. ISO formats be an option for file transmission, that additional lead time be given for projects utilizing S.W.I.F.T. formats, and that NSCC support transmission in ASCII format. With regard to FAL's request, NSCC believes that the standard data transmission procedures currently employed by NSCC meet the concerns expressed therein. In addition, NSCC provided Franklin Templeton Distributors, Inc. with the additional information concerning interactive processing that it requested in its letter (dated November 30, 1995). NSCC will notify the Commission of any additional 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 NSCC 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–96–04 and should be submitted by April 5, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6234 Filed 3–14–96; 8:45 am]

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[5] 15 U.S.C. 78q–1 (1988).

[6] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36948; File No. SR–NYSE–95–10]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Margin Requirements for Over-the-Counter Options and Interest Rate Composites

March 11, 1996.

I. Introduction

On March 9, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 431, ''Margins,'' to revise the initial and/or maintenance margin requirements for short positions in a variety of over-the-counter (''OTC'') options[3] held in customer accounts and to adopt margin requirements for options on interest rate composites.

Notice of the proposal appeared in the Federal Register on April 7, 1995.[4] No comments were received on the proposed rule change. The proposal was amended on September 15, 1995.[5] This order approves the Exchange's proposal, as amended.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] OTC options are not issued by the Options Clearing Corporation (''OCC'') or listed on any national securities exchange. They are individually negotiated options contracts between a customer and a broker-dealer designed to reflect the customer's specific needs as to the options characteristics. According to the Exchange, these contracts are generally entered into by domestic and foreign institutions, mutual funds and insurance companies and are usually written for periods of less than one year.

[4] See Securities Exchange Act Release No. 35555 (March 31, 1995), 60 FR 17831.

[5] On September 15, 1995, the NYSE amended its proposal to increase the margin requirement for non-mortgage backed U.S. government agency debt securities that qualify for exemption under Rule 3a12–7 under the Act and are held in exempt accounts from 2% to 3% in order to meet the 97.5% confidence level for seven-day price movements. The amendment also indicates that only OTC options on corporate debt securities that qualify as OTC margin bonds under Section 220.2(t)(1) of Regulation T under the Act are accorded 15% margin treatment for OTC options. All other options that qualify as OTC margin bonds as defined in Section 220.2(t) (including foreign sovereign debt and foreign corporate debt) are not eligible for the 15% margin requirement and are subject to the current 45% margin requirement for OTC options. See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Sharon Lawson, Assistant Director, Division of Market Regulation (''Division''), Commission, dated September 13, 1995 (''Amendment No. 1'').

II. Description of the Proposal

A. Margin Requirements for OTC Options

Currently, NYSE Rule 431 requires customer margin for short OTC stock and stock index options to be 100% of the option premium plus 45% of the current market value of the underlying security or the product of the current index group value of the underlying index and the applicable index multiplier.[6] The NYSE proposes to amend Exchange Rule 431 to revise the initial and/or maintenance customer margin requirements for short positions in OTC overlying certain instruments. Specifically, the NYSE proposes to establish customer margin for OTC options equal to a specified percentage of the current value of the underlying component and the applicable multiplier, if any, plus any in-the-money amount. The required OTC option customer margin may be reduced by any out-of-the-money amount, but may not be less than the minimum amount specified for each option category.

The proposed percentages of the current value of the underlying components[7] are as follows: (1) For stock and convertible corporate debt securities, 30%, with minimum margin of 10%; (2) for industry index stock groups, 30%, with minimum margin of 10%; (3) for broad index stock groups, 20%, with minimum margin of 10%; (4) for U.S. government or U.S. government agency debt securities other than those exempted by Rule 3a12–7 under the Act, 5%, with minimum margin of 3%;[8] (5) for corporate debt securities registered on a national securities exchange and OTC margin bonds as defined in Section 220.2(t)(1) of Regulation T under the Act, 15% with minimum margin of 5%;[9] and (6) for all other OTC options (except as discussed below), 45%, with minimum margin of 20%.

Under the proposal, OTC options on U.S. government and U.S. government agency debt securities that qualify for exemption pursuant to Rule 3a12–7 under the Act must be for a principal amount of not less than $500,000. For exempt accounts,[10] the required margin for U.S. government debt securities will be 3% of the current value of the underlying principal amount on 30-year U.S. Treasury bonds and 2% of the current value of the underlying principal amount on all other U.S. government debt securities, plus any in-the-money amount or minus any out-of-the-money amount. For non-mortgage backed U.S. agency debt securities in exempt accounts, the required margin will be 3% plus any in-the-money amount or minus any out-of-the-money amount.[11]

For exempt accounts holding OTC options on U.S. government and U.S. government agency debt securities that qualify for exemption pursuant to Rule 3a12–7 under the Act, the amount of any deficiency between the equity in the account and the margin required[12] will be deducted in computing the net capital of the member organization under the NYSE's capital requirements on the following basis: (a) On any account or group of commonly controlled accounts to the extent the deficiency exceeds 5% of the member organization's tentative net capital (net capital before deductions on securities), 100% of such excess amount; and (b) on all accounts combined to the extent such deficiency exceeds 25% of a member organization's tentative net capital, 100% of such excess amount, reduced by any amount already deducted pursuant to paragraph (a).

For non-exempt accounts, the required margin will be 5% of the current value of the underlying principal amount on 30-year U.S. Treasury bonds and 3% of the current value of the underlying principal amount on all other U.S. government and U.S. government agency debt securities, plus any in-the-money amount or minus any amount.

The Exchange has agreed to a system of periodic reviews to ensure the adequacy of the proposed margin requirements and for increasing the requirements on an expedited basis if necessary. The NYSE's monitoring plan will consist of the following:

- Semi-annual reviews of the seven-day price movements of the underlying instruments will be conducted. These volatility reviews will cover both the last six months and the last three years.[13]
- The semi-annual review must indicate a 97.5% confidence level (*e.g.*, the required margin level is adequate for seven-day price movements 97.5% of the time).
- For each option category, two member organizations using their own data or one member organization using an independent pricing source acceptable to the Exchange must provide semi-annual reports on price movements.
- if one semi-annual review indicates the margin level is inadequate for an option category, the Exchange will increase the margin requirements by filing a proposal pursuant to Section

[6] In contrast, margin for exchange-traded equity options, for example, is premium plus 20% of the value of the equivalent number of shares at current market prices.

[7] Under the proposal, the ''underlying component'' is: for stocks, the equivalent number of shares; for industry and broad index stock groups, the current index group value and the applicable index multiplier; for U.S. Treasury bills, notes and bonds, the underlying principal amount; for foreign currencies, the units per foreign currency contract; and for interest rate contracts, the interest rate measure based on the yield of U.S. Treasury bills, notes, or bonds and the applicable multiplier. The ''interest rate measure'' for short term U.S. Treasury bills represents the annualized discount yield of a specific issue multiplied by 10 or, for long term U.S. Treasury notes and bonds, the average of the yield to maturity of the specific issues multiplied by 10.

[8] Rule 3a12–7 under the Act provides that options that are not traded on a national securities exchange and which relate to securities that are direct obligations of the U.S. or are issued or guaranteed by a corporation in which the U.S. has a direct or indirect interest (and designated for exemption pursuant to Section 3(a)(12) of the Act) are exempt from all provisions of the Act which by their terms do not apply to ''exempted security'' or ''exempted securities,'' provided that the securities underlying the option represent an obligation equal to or exceeding $250,000 in principal amount. Under the proposal, option contracts in this category must be for a principal amount of not less than $500,000.

[9] See Amendment No. 1, *supra* note 5. Section 220.2(t)(1) of Regulation T under the Act defines an OTC margin bond to include certain debt securities not traded on a national securities exchange. Options transactions on private mortgage pass-through securities and mortgage related debt securities qualified under Section 3(a)(41) under the Act are not eligible for the margin requirements contained in this provision. Margin requirements for such securities must be computed pursuant to the proposed requirements for all other OTC options, *i.e.*, 45% of the current market value of the underlying instrument, with minimum margin of 20%.

[10] Under the proposal, an ''exempt account'' is a member organization, non-member broker/dealer, ''designated account,'' as defined in NYSE Rule 431(a)(3), any person having net tangible assets of at least $16 million, or in the case of mortgage-related debt securities transactions, an independently audited mortgage banker with both more than $1.5 million of net current assets (which may include ¾ of 1% maximum allowance on loan servicing portfolios) and with more than $1.5 million of net worth.

[11] See Amendment No. 1, *supra* note 5.

[12] Under the proposal, a member may collect margin from the exempt account, or take a capital charge in lieu of collecting margin.

[13] Under SEC Rule 15c6–1, which became effective on June 1, 1995, the securities transaction settlement period is three days. The Board of Governors of the Federal Reserve System amended Regulation T under the Act to make Regulation T consistent with SEC Rule 15c6–1. Specifically, Regulation T, as amended, states that a margin call must be satisfied within one payment period after the margin deficiency was created or increased. Regulation T defines a ''payment period'' as the number of business days in the standard securities settlement cycle in the U.S. as defined in SEC Rule 15c6–1 under the Act, plus two business days. Accordingly, under Regulation T, as amended, margin calls must be satisfied within five business days. In light of these changes, the NYSE may wish, in the future, to adopt procedures that would review volatility over five-day periods. Any such change would be submitted as a proposed rule change pursuant to Section 19(b) of the Act.

19(b)(3)(A) under the Act for immediate effectiveness.

- In order to lower the margin requirements, two consecutive six-month reviews must demonstrate that the immediate effectiveness.
- In order to lower the margin requirements, two consecutive six-month reviews must demonstrate that the lower requirement meets the 97.5% confidence level. The Exchange will submit proposals to lower the margin requirements by filing a proposed rule change pursuant to Section 19(b)(2) under the Act.
- Before lowering the margin requirements, the Exchange will take into consideration other relevant factors, such as current market conditions, member organization views, and margin levels from other options products (where similar OCC-issued options exist).

B. Margin Requirements for Interest Rate Options

The NYSE proposes to incorporate into NYSE Rule 431 the margin requirements for short positions in exchange-traded interest rate options previously approved by the Commission for the Chicago Board Options Exchange, Inc. (''CBOE'').[14] Specifically, for short positions in interest rate option contracts issued by a registered clearing agency, the initial and/or maintenance margin will be premium plus 10% of the underlying component value (*i.e.*, the product of the current interest rate measure and the applicable multiplier), minus any out-of-the-money amount, and the minimum required margin will be 5% of the underlying component value.

C. Statutory Basis

The NYSE believes that the proposed rule change is consistent with the requirements of the Act and, in particular, furthers the objectives of Section 6(b)(5), which provides that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public. In addition, the NYSE believes that the proposed rule change is also consistent with the rules and regulations of the Board of Governors of the Federal Reserve System for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) under the Act.

[14] See Securities Exchange Act Release No. 26938 (June 15, 1989), 54 FR 26285 (June 22, 1989) (order approving File No. SR–CBOE–87–30).

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), in that the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.[15] Specifically, the Commission believes that the proposed rule change will establish margin levels for OTC options that are adequate to ensure investor protection and maintain fair and orderly markets, as well as address prudential concerns regarding the margin levels for OTC options. In approving the proposal, the Commission and the NYSE have worked closely with NYSE member firms to reduce the current high margin levels for OTC options while ensuring that the proposed margin levels provide adequate coverage of potential future price movements.

Historically, margin in OTC options has been set at levels substantially higher than that for similar exchange-traded products issued and guaranteed by the OCC, a registered clearing corporation. This difference in treatment is due, in part, to the nature of an OTC option where performance is not guaranteed by a registered clearinghouse but rather is dependent on the creditworthiness of the parties to the contract and their ability to perform. In addition to credit risk, higher margin was used due to the lack of a trading market to close out a position, which theoretically increased the risk of assuming a position in the option.

As a result of these factors, the self-regulatory organizations in 1985 set OTC options margins at the premium paid plus 45% of the value of the underlying instrument. Since then, the market for OTC options has grown and changed significantly. Consequently, the NYSE and the Commission staff have been working closely with industry representatives to determine how to reduce current margin levels on certain OTC options and still maintain adequate coverage. In this regard, NYSE member firms have submitted historical price volatility data for the options' underlying instruments indicating the percentage movements that would capture 97.5% of the seven-day price moves within the review period. The NYSE used the data to help it determine the minimum margin levels for options overlying the instruments. Based on a review of the historical price volatility data provided by the firms, the Commission believes that the proposed OTC option margin requirements should provide adequate coverage of contract obligations and address the systemic risks arising from a substantial reduction in margin levels.

[15] 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

The Commission notes that the methodology utilized in the proposal for determining the adequacy of the OTC option margin levels are similar to the methodology used currently by the options exchanges to establish margin levels for exchange-traded options.[16] Specifically, in 1985, the Commission approved proposals that established initial margin sufficient to cover each underlying product's historical volatility over a seven-day period with a 95% confidence level.[17] The current proposal provides for margin levels that cover each underlying product's seven-day price movements with a 97.5% confidence level. The extra 2.5% coverage (97.5% versus 95%) used by the NYSE will help to capture better any episodic, short-term volatility in the underlying instruments. In addition, the use of two review periods by the NYSE (six months and three years) will capture both recent and medium term volatility, which is prudent given the difficulty in closing out a position in OTC options. Moreover, the NYSE has attempted to account for the lack of a clearinghouse guarantee through several additions to the numbers obtained by the confidence level reviews.

In connection with exempt accounts holding OTC options on U.S. government or U.S. government agency debt securities that qualify for exemption pursuant to rule 3a12–7 under the Act, the Commission believes that it is reasonable for the Exchange to allow a deduction from a member's net capital rather than require collection of

[16] See Securities Exchange Act Release No. 22469 (September 26, 1985), 50 FR 40633 (order approving File Nos. SR–Amex–84–29, SR–CBOE–84–27, SR–NASD–85–15, SR–NYSE–84–88, SR–PSE–84–20, SR–PHLX–84–32, and SR–PHLX–85–18) (''1985 Approval Order''). In light of the increased market volatility during the last quarter of 1987, the Commission in 1988 approved proposals to increase the margin levels for equity options and broad-based and narrow-based index options. See Securities Exchange Act Release No. 25701 (May 17, 1988), 53 FR 20706 (June 6, 1988) (order approving File Nos. SR–Amex–88–12, SR–CBOE–88–6, SR–CBOE–88–8, SR–NYSE–88–12, SR–PSE–88–4, and SR–PHLX–88–19).

[17] The Commission notes, however, that for exchange-traded options, margin is calculated based on the option premium plus a specified percentage of the value of the underlying instrument. The proposed levels for OTC options will be calculated based on a specified percentage of the current value of the underlying instrument plus any in-the-money amount and less any out-of-the-money amount.

margin. In this regard, the Commission notes that the proposal is similar to the Exchange provisions applicable to exempt Government National Mortgage Association (''GNMA'') transactions, which provide that exempt accounts are not required to post margin or marks-to-market for their exempt GNMA transactions, although members must charge their capital for any mark-to-market deficits that are not collected.[18] The Commission notes, in addition, that the proposal allows members to take a capital charge only in connection with exempt accounts trading options on securities that are exempted under Rule 3a12–7.

The Commission also believes that the NYSE has proposed adequate procedures to review periodically the margin levels for the OTC options included in this rule proposal. Specifically, the NYSE will conduct semi-annual reviews of price volatility over both the previous six months and the previous three years. The semi-annual reviews must indicate that the required margin covers a product's historical price volatility over a seven-day period with a 97.5% confidence level. For each option category, the price volatility reports must be prepared either by two NYSE member organizations or by one member organization using an independent pricing source acceptable to the Exchange. If a semi-annual review indicates that the margin level for an OTC option category is inadequate, the Exchange will increase the margin requirements for that category by filing a proposal pursuant to Section 19(b)(3)(A) under the Act for immediate effectiveness.

In order to lower the margin requirements, two consecutive six-month reviews must demonstrate that the proposed lower requirement meets the 97.5% confidence level and the Exchange must consider other relevant factors, including current market conditions, member organization views, and margin levels for similar OCC-issued options. In addition, a proposal to decrease the margin requirement for an option category must be filed pursuant to Section 19(b)(2) under the Act.

The Commission believes that these procedures should provide the Exchange with the flexibility to lower margin levels when price volatility and other relevant factors indicate that a lower margin level may be warranted and, at the same time, require the Exchange to increase margin promptly when a semi-annual review indicates that the current margin fails to cover a product's historical price volatility with a 97.5% confidence level.

As noted above, the Commission has worked closely with NYSE member firms to establish adequate OTC option margin levels. The NYSE's proposal should enhance the competitiveness of U.S. securities firms by substantially reducing options margin levels while ensuring that OTC options margin levels are adequate to protect investors and avoid the risks associated with excessively low margin levels.

Finally, the Commission believes that it is reasonable for the NYSE to adopt a margin requirement for exchange-traded interest rate option contracts equal to premium plus 10% of the product of the current interest rate measure and the applicable multiplier, with minimum margin equal to 5% of the current interest rate measure and the applicable multiplier. The NYSE's proposed margin for interest rate options is identical to the margin level for interest rate options adopted previously by the CBOE[19] and thus does not raise new regulatory concerns.

The Commission finds good cause for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 1 increases the margin requirement for non-mortgage backed agency securities, thereby helping to ensure that the required margin covers seven-day price movements in non-mortgage backed U.S. government agency debt securities with a 97.5% confidence level. The Commission believes that Amendment No. 1 strengthens the Exchange's proposal by establishing adequate margin for non-mortgage backed agency securities and by clarifying the definition of marginable OTC corporate debt securities for purposes of the proposal. Therefore, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposal. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 5, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the amended proposed rule change (SR–NYSE–95–10) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–6232 Filed 3–14–96; 8:45 am]

BILLING CODE 8010–01–M

[18] See NYSE Interpretation Handbook, NYSE Rule 431(c)(2)(C)/033.

[19] See CBOE Rule 23.13, ''Margin Requirements.''

[20] 15 U.S.C. 78s(b)(2) (1988).

[20] 17 CFR 200.30–3(a)(12) (1994).

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendment to sentencing guidelines and commentary. Request for public comment.

SUMMARY: The Commission is considering promulgating an amendment to the sentencing guidelines and commentary. This notice sets forth the proposed amendment and a synopsis of the issues addressed by the amendment as well as an additional issue for comment. The Commission seeks comment on the proposed amendment, alternative proposed amendments, and any other aspect of the sentencing guidelines, policy statements, and commentary. The Commission may submit amendments to the Congress not later than May 1, 1996.

DATES: Written public comment on the amendment and issue for comment set forth in this notice should be received by the Commission not later than March 29, 1996, in order to be considered by the Commission in the promulgation of amendments and in the possible

submission of those amendments to the Congress by May 1, 1996.

ADDRESSES: Public comment should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2–500, Washington, D.C. 20002–8002, Attention: Public Information.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o). If guideline amendments are promulgated, those amendments are submitted to Congress not later than the first day of May pursuant to 28 U.S.C. 994(p).

The proposed amendment as presented in this notice contains bracketed text to indicate alternative proposals; for example, a proposed enhancement of [3][4][5] levels means a proposed enhancement of either three, four, or five levels. The Commission invites comment and suggestions for appropriate policy choices where bracketed text is indicated.

Previously this year, the Commission published proposed amendments for consideration in this year's amendment cycle in order to implement congressional directives in the Sex Crimes Against Children Prevention Act of 1995. (See the notice dated February 23, 1996, 61 FR 7037–7039). The amendment presented in this notice is proposed in order to address 18 U.S.C. 2422(b), a new offense created by the Telecommunications Act of 1996. The amendment, which is proposed to be made to 2G1.2 (Transportation of a Minor for the Purpose of Prostitution or Prohibited Sexual Conduct), incorporates the amendments already proposed this year to implement section 4 of the Sex Crimes Against Children Prevention Act of 1995.

Authority: 28 U.S.C. 994(a), (o), (p), (x).

Richard P. Conaboy,

Chairman.

Sex Offenses Against Minors

Chapter Two, Part G (Offenses Involving Prostitution, Sexual Exploitation of Minors, and Obscenity)

1. Synopsis of Proposed Amendment

This is a two-part amendment. First, the amendment implements the directive contained in section 4 of the Sex Crimes Against Children Prevention Act of 1995, which directs the Commission to increase the base offense level for an offense under section 2423(a) of title 18, United States Code, by at least three levels. Second, the amendment addresses 18 U.S.C. 2422(b), a new offense created by section 508 of the Telecommunications Act of 1996. That offense makes it unlawful, through the use of any facility or means of interstate or foreign commerce, including the mail, or within the special maritime or territorial jurisdiction of the United States, to knowingly persuade, induce, entice, or coerce an individual under the age of 18 years to engage in prostitution or any sexual act for which a person may be criminally prosecuted. Currently, § 2G1.2 applies to transporting a person for the purpose of prostitution or prohibited sexual conduct and to persuading, inducing, enticing, and coercing a person to travel for either such purpose. By proposing to make § 2G1.2 applicable to the new offense under 18 U.S.C. 2422(b), this amendment would expand the scope of § 2G1.2 to include an offense that involves promoting prostitution or prohibited sexual conduct through a means other than transportation or travel.

Two options are shown. Each option addresses the issues described in the preceding paragraphs. In an effort to further the Commission's goal of simplifying the operation of the guidelines, Option 2 also consolidates §§ 2G1.1 (Transportation for the Purpose of Prostitution or Prohibited Sexual Conduct) and 2G1.2 (Transportation of a Minor for the Purpose of Prostitution or Prohibited Sexual Conduct). As proposed under Option 2, the base offense level for offenses covered by § 2G1.2 is reduced from the current level of 16 to a proposed level of 14 in order to effectuate the consolidation of §§ 2G1.2 and 2G1.1 (which currently has a base offense level of 14). However, Option 2 does not reduce the overall offense level for offenses covered by § 2G1.2 because the specific offense characteristic related to the age of the victim is proposed to be increased by two levels to compensate for the reduction in the base offense level. (That two-level increase is in addition to the three-level increase directed to be made by the Sex Crimes Against Children Prevention Act of 1995, as described above.) Additionally under Option 2, the specific offense characteristics and cross references that now apply only to § 2G1.2 are added to § 2G1.1.

(A) Proposed Amendment—Option 1: Section 2G1.2 is amended to read as follows:

''§ 2G1.2. Promoting Prostitution Involving a Minor or Prohibited Sexual Conduct Involving a Minor

''(a) Base Offense Level: [19][20][21]

''(b) Specific Offense Characteristics

''(1) If the offense involved the use of physical force, or coercion by threats or drugs or in any manner, increase by 4 levels.

''(2) If the offense involved a victim under the age of twelve years, increase by 4 levels.

''(3) If the offense involved a victim at least twelve years of age but under the age of sixteen years, increase by 2 levels.

''(4) If (A) the defendant was a parent, relative, or legal guardian of the victim involved in the offense, and the victim was less than eighteen years of age, or (B) the victim involved in the offense was less than eighteen years of age and was otherwise in the custody, care, or supervisory control of the defendant, increase by 2 levels.

''(c) Cross References

''(1) If the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a person less than eighteen years of age to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, apply § 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production).

''(2) If the offense involved criminal sexual abuse, attempted criminal sexual abuse, or assault with intent to commit criminal sexual abuse, apply § 2A3.1 (Criminal Sexual Abuse; Attempt or Assault with the Intent to Commit Criminal Sexual Abuse).

''(3) If neither subsection (c)(1) nor (c)(2) is applicable, and the offense did not involve promoting

prostitution, apply § 2A3.2 (Criminal Sexual Abuse of a Minor or Attempt to Commit Such Acts) or § 2A3.4 (Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact), as appropriate.

''(d) Special Instructions

''(1) If the offense involved more than one victim, Chapter Three, Part D (Multiple Counts) shall be applied as if the promoting of prostitution or prohibited sexual conduct in respect to each victim had been contained in a separate count of conviction.

''(2) For the purposes of this guideline—

''(A) 'Coercion' includes any form of behavior that negates the voluntariness of the behavior of the victim.

''(B) 'Promoting prostitution or prohibited sexual conduct' means (i) transporting a person for the purpose of prostitution or prohibited sexual conduct, or (ii) persuading, inducing, enticing, or coercing a person to travel for the purpose of, or to engage in, prostitution or prohibited sexual conduct.

''(C) 'Sexually explicit conduct— has the meaning set forth in 18 U.S.C. § 2256.

''(D) 'Victim' means a person transported, persuaded, induced, enticed, or coerced to engage in prostitution or prohibited sexual conduct, whether or not the person consented to the prostitution or prohibited sexual conduct.

''Commentary

''Statutory Provisions: 8 U.S.C. § 1328; 18 U.S.C. §§ 2421, 2422, 2423(a).

''Application Notes:

''1. For the purposes of Chapter Three, Part D (Multiple Counts), each person transported, persuaded, induced, enticed, or coerced to engage in prostitution or prohibited sexual conduct is to be treated as a separate victim. Consequently, multiple counts involving more than one victim are not to be grouped together under § 3D1.2 (Groups of Closely-Related Counts). Special instruction (d)(1) directs that if the relevant conduct of an offense of conviction includes the promoting of prostitution or prohibited sexual conduct in respect to more than one person, whether specifically cited in the count of conviction or not, each such person shall be treated as if contained in a separate count of conviction.

''2. The enhancement for physical force, or coercion, anticipates no bodily injury. If bodily injury results, an upward departure may be warranted. See Chapter Five, Part K (Departures).

''3. Coercion, as defined in this guideline, would apply, for example, where the ability of the victim to appraise or control conduct was substantially impaired by drugs or alcohol.

''4. Subsection (b)(4) is intended to have broad application and includes offenses involving a victim less than eighteen years of age entrusted to the defendant, whether temporarily or permanently. For example, teachers, day care providers, baby-sitters, or other temporary caretakers are among those who would be subject to this enhancement. In determining whether to apply this adjustment, the court should look to the actual relationship that existed between the defendant and the victim and not simply to the legal status of the defendant-victim relationship.

''5. If the adjustment in subsection (b)(4) applies, do not apply § 3B1.3 (Abuse of Position of Trust or Use of Special Skill).

''6. The cross reference in subsection (c)(1) is to be construed broadly to include all instances where the offense involved employing, using, persuading, inducing, enticing, coercing, transporting, permitting, or offering or seeking by notice or advertisement, a person less than eighteen years of age to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.''.

(B) Proposed Amendment—Option 2 (Consolidation of §§ 2G1.1 and 2G1.2):

Subpart One of Part G of Chapter Two is amended by striking §§ 2G1.1 and 2G1.2 and inserting the following:

''§ 2G1.1. Promoting Prostitution or Prohibited Sexual Conduct

''(a) Base Offense Level: 14

''(b) Specific Offense Characteristics

''(1) If the offense involved the use of physical force, or coercion by threats or drugs or in any manner, increase by 4 levels.

''(2) If the offense involved a victim who has (A) not attained the age of twelve years, increase by [9][10][11] levels; (B) attained the age of twelve years but not attained the age of sixteen years, increase by [7][8][9] levels; or (C) attained the age of sixteen years but not attained the age of eighteen years, increase by [5][6][7] levels.

''(3) If subsection (b)(2) applies, and (A) the defendant was a parent, relative, or legal guardian of the victim, or (B) the victim was otherwise in the custody, care, or supervisory control of the defendant, increase by 2 levels.

''(c) Cross References

''(1) If the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a person less than eighteen years of age to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, apply § 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production).

''(2) If the offense involved criminal sexual abuse, attempted criminal sexual abuse, or assault with intent to commit criminal sexual abuse, apply § 2A3.1 (Criminal Sexual Abuse; Attempt or Assault with the Intent to Commit Criminal Sexual Abuse).

''(3) If the offense did not involve promoting prostitution, and neither subsection (c)(1) nor (c)(2) is applicable, use the offense guideline applicable to the underlying prohibited sexual conduct. If no offense guideline is applicable to the prohibited sexual conduct, apply § 2X5.1 (Other Offenses).

''(d) Special Instructions

''(1) If the offense involved more than one victim, Chapter Three, Part D (Multiple Counts) shall be applied as if the promoting of prostitution or prohibited sexual conduct in respect to each victim had been contained in a separate count of conviction.

''(2) For the purposes of this guideline—

''(A) 'Coercion' includes any form of conduct that negates the voluntariness of the behavior of the victim.

''(B) 'Promoting prostitution or prohibited sexual conduct' means (i) transporting a person for the purpose of prostitution or prohibited sexual conduct, or (ii) persuading, inducing, enticing, or coercing a person to travel for the purpose of, or to engage in, prostitution or prohibited sexual conduct.

''(C) 'Sexually explicit conduct' has the meaning set forth in 18 U.S.C. 2256.

''(D) 'Victim' means a person transported, persuaded, induced, enticed, or coerced to engage in prostitution or prohibited sexual conduct, whether or not the person consented to the prostitution or prohibited sexual conduct.

''Commentary

''Statutory Provisions: 8 U.S.C. 1328; 18 U.S.C. 2421, 2422, 2423(a).

''Application Notes:

''1. The enhancement for physical force, or coercion, anticipates no bodily injury. If bodily injury results, an upward departure may be warranted. See Chapter Five, Part K (Departures).

''2. Coercion, as defined in this guideline, would apply, for example, where the ability of the victim to appraise or control conduct was substantially impaired by drugs or alcohol. In the case of an adult victim, rather than a victim less than eighteen years of age, this characteristic generally will not apply where the alcohol or drug was voluntarily taken.

''3. For the purposes of § 3B1.1 (Aggravating Role), a victim, as defined in this guideline, is considered a participant only if that victim assisted in the promoting of prostitution or prohibited sexual conduct in respect to others.

''4. For the purposes of Chapter Three, Part D (Multiple Counts), each person transported, persuaded, induced, enticed, or coerced to engage in prostitution or prohibited sexual conduct is to be treated as a separate victim. Consequently, multiple counts involving more than one victim are not to be grouped together under § 3D1.2 (Groups of Closely Related Counts). Special instruction (c)(1) directs that if the relevant conduct of an offense of conviction includes the promoting of prostitution or prohibited sexual conduct in respect to more than one person, whether specifically cited in the count of conviction or not, each such person shall be treated as if contained in a separate count of conviction.

''5. Subsection (b)(3) is intended to have broad application and includes offenses involving a victim less than eighteen years of age entrusted to the defendant, whether temporarily or permanently. For example, teachers, day care providers, baby-sitters, or other temporary caretakers are among those who would be subject to this enhancement. In determining whether to apply this adjustment, the court should look to the actual relationship that existed between the defendant and the victim and not simply to the legal status of the defendant-victim relationship.

''6. If the adjustment in subsection (b)(3) applies, do not apply § 3B1.3 (Abuse of Position of Trust or Use of Special Skill).

''7. The cross reference in subsection (c)(1) is to be construed broadly to include all instances where the offense involved employing, using, persuading, inducing, enticing, coercing, transporting, permitting, or offering or seeking by notice or advertisement, a person less than eighteen years of age to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

''8. The cross reference at subsection (c)(3) addresses the unusual case in which the offense did not involve promoting prostitution and neither subsection (c)(1) nor (c)(2) is applicable. In such case, the guideline for the underlying prohibited sexual conduct is to be used, e.g., § 2A3.2 (Criminal Sexual Abuse of a Minor (Statutory Rape) or Attempt to Commit Such Acts) or § 2A3.4 (Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact). If there is no offense guideline for the underlying prohibited sexual conduct, § 2X5.1 (Other Offenses) is to be used.''.

[FR Doc. 96–6271 Filed 3–14–96; 8:45 am]

BILLING CODE 2210–40–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. Since the last list was published in the Federal Register on March 1, 1996, the information collections listed below have been proposed or will require extension of the current OMB approvals. (Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed below the information collections.)

1. Annual Earnings Operations Direct Mail Followup—0960–0369. The information collected on forms SSA–L9778, SSA–L9779, SSA–L9780 and SSA–L9781 will be used to determine if the recipients have underestimated their earnings for the current year. This will allow benefits to be withheld if necessary, and will thereby avoid many overpayments. The affected public is beneficiaries who are likely to underestimate their earnings.

Number of Respondents: 400,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 66,667 hours.

2. Medical Report on Adult or Child With Allegation of Human Immunodeficiency Virus (HIV) Infection—0960–0503. The information on forms SSA–4814 and SSA–4815 is used by the Social Security Administration to determine if an individual claiming to have HIV infection meets the requirements for presumptive disability benefits.

	SSA–4814	SSA–4815
Number of Respondents:	25,000	7,500.
Frequency of Response:	1	1.
Average Burden Per Response:	10 minutes	10 minutes.
Estimated Annual Burden:	4,167 hours	1,250 hours.

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

The information collection listed below, which was published in the Federal Register on December 29, 1995, has been submitted to OMB.

Coverage of Employees of State and Local Governments, F–20–404M. The information collected in accordance with this regulation is obtained from State governments (or interstate instrumentalities) desiring to obtain Social Security coverage for their employees. The respondents are State governments.

Number of Respondents: 52.

Frequency of Response: 6.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 312 hours.

Written comments and recommendations regarding this information collections should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB)
Office of Management and Budget, OIRA
Attn: Laura Oliven

New Executive Office Building, Room 10230
Washington, D.C. 20503
(SSA)
Social Security Administration, DCFAM
Attn: Charlotte S. Whitenight
6401 Security Blvd, 1–A–21 Operations Bldg.
Baltimore, MD 21235

Dated: March 6, 1996.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–5959 Filed 3–14–96; 8:45 am]

BILLING CODE 4190–29–P

Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. Since the last list was published in the Federal Register on March 1, 1996, the information collections listed below have been proposed or will require extension of the current OMB approvals. (Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed below the information collections.)

1. Application for Benefits Under a U.S. International Social Security Agreement—0960–0448. The information collected on form SSA–2490 is used by the Social Security Administration to determine a claimant's eligibility for U.S. Social Security benefits under the provisions of an international social security agreement. It is also used to take an application for benefits from a foreign country under an agreement. The respondents are individuals who are applying for benefits from either the United States and/or a foreign country with which the United States has an agreement. The United States currently has 17 such agreements.

Number of Respondents: 20,000.

Frequency of response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 10,000 hours.

2. Self-Employment-Corporate Officer Questionnaire—0960–0487. The information collected on form SSA–4184 is used by the Social Security Administration to develop a claimant's earnings or corroborate his or her allegation of retirement when he or she is self-employed or a corporate officer. The affected public consists of claimants for benefits who provide the additional information to support their allegation concerning earnings or employment.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 16,667 hours.

3. Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—0960–0002. The information collected on form SSA–723 is used to determine if the Social Security Administration may infer that a missing person is deceased. The respondents are individuals who know or are related to the missing person.

Number of Respondents: 3,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,500 hours.

4. Partnership Questionnaire—0960–0025. The form SSA–7104 is used to collect information which is needed to evaluate partnership relationships to determine which portion of the partnership income should be credited to each partner. The affected public consists of claimants for social security benefits who are involved in a partnership.

Number of Respondents: 12,350.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 6,175 hours.

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: March 4, 1996.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–5704 Filed 3–14–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2357]

Extension of the Restriction on the Use of United States Passports for Travel To, In, or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73 (a)(2) and (a)(3), all United States passports, with certain exceptions, were declared invalid for travel to, in, or through Iraq unless specifically validated for such travel. The restriction was originally imposed because armed hostilities then were taking place in Iraq and Kuwait, and because there was an imminent danger to the safety of United States travelers to Iraq. American citizens then residing in Iraq and American professional reporters and journalists on assignment there were exempted from the restrictions on the ground that such exemptions were in the national interest. The restriction was extended for additional one-year periods on February 18, 1992, February 23, 1993, February 26, 1994, and March 3, 1995.

Although armed hostilities have ended, conditions in Iraq remain unsettled and hazardous. Regional conflicts continue in northern Iraq between Kurdish ethnic groups and Iraqi security forces. In southern Iraq, military repression of the Shia communities is severe, rendering conditions unsafe. Iraq's economy was severely damaged during the Gulf War and continues to be affected by the U.N. economic sanctions. Basic modern medical care and medicines may not be available to our citizens in case of emergency.

U.S. citizens and other foreigners working inside Kuwait near the Iraqi borders have been detained by Iraqi authorities in the past and sentenced to lengthy jail terms for illegal entry into the country. Although our interests are represented by the Embassy of Poland in Baghdad, its ability to obtain consular access to detained U.S. citizens and to perform emergency services is constrained by Iraqi unwillingness to cooperate.

In light of these circumstances, I have determined that Iraq continues to be a country ''* * * where there is imminent danger to the public health or physical safety of United States travelers.''

Accordingly, United States passports shall continue to be invalid for use in travel to, in, or through Iraq unless specifically validated for such travel under the authority of the Secretary of State. The restriction shall not apply to American citizens residing in Iraq on February 1, 1991, who continue to reside there, or to American professional reporters or journalists on assignment there.

The Public Notice shall be effective upon publication in the Federal Register and shall expire at the end of one year unless sooner extended or revoked by Public Notice.

Dated: March 8, 1996.

Warren Christopher,

Secretary of State.

[FR Doc. 96–6363 Filed 3–13–96; 9:57 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 3/8/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1134
Date filed: March 7, 1996
Parties: Members of the International Air Transport Association
Subject: TC3 Telex Mail Vote 784
Japan-Russian Federation fares
r–1—053i
r–2—043i
r–3—063i
r–4—063ii
r–5—076ee
r–6—081z

Intended effective date: April 1, 1996.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–6253 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending March 8, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1131
Date filed: March 4, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 1, 1996
Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. Section 41101, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity for authority to offer scheduled foreign air transportation of persons, property and mail in the following U.S.-Japan city-pairs: (1) Chicago, Illinois-Osaka, Japan; (2) Seattle, Washington-Tokyo/Osaka, Japan; and (3) Washington, D.C.-Tokyo/Osaka, Japan. United also requests that the present limitation on the frequencies it may operate for services between Chicago and Tokyo be eliminated or, in the alternative, amended by adding eight weekly frequencies to the present allocation of six weekly for a total of fourteen weekly frequencies. United also requests authority to integrate its new services described above with other services consistent with outstanding bilateral agreements.

Docket Number: OST–96–1136
Date filed: March 8, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 5, 1996
Description: Application of World Airways, Inc. pursuant to 49 U.S.C. 41110, and Subpart Q of the Regulations, applies for amendment to its certificate of public convenience and necessity for scheduled combination air transportation, between points in the United States and Senegal and beyond.

Docket Number: OST–96–1138
Date filed: March 8, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 5, 1996
Description: Application of Continental Airlines, Inc. pursuant to 49 U.S.C. Sections 41108 and 41102, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of persons, property and mail between Newark/New York and Toronto and for two daily U.S.-Toronto frequencies. Continental also requests the right to combine Newark/New York-Toronto service with service at other points Continental is authorized to serve by certificates or exemptions, consistent with applicable international agreements.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–6254 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–62–P

Office of the Secretary

[Dockets OST–95–788 and OST–95–900]

Applications of Piedmont Aviation Services, Inc. d/b/a Premier Airlines for New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 96–3–19.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) Finding Piedmont Aviation Services, Inc. d/b/a Premier Airlines fit, willing, and able, and (2) awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than March 21, 1996.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–95–788 and OST–95–900 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: March 11, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–6269 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 13–01]

Delegation of Authority to the Assistant Secretary (Financial Markets) for the Government Securities Act of 1986 and the Government Securities Act Amendments of 1993 (''GSAA of 1993'')

Dated: March 8, 1996.

1. *Purpose:* This Directive delegates to the Assistant Secretary (Financial Markets) the authority under the Government Securities Act of 1986 and the GSAA of 1993 (''Acts'').

2. *Background:* These Acts require the Secretary of the Treasury to promulgate certain regulations concerning government securities brokers and dealers. The Secretary's authority has been delegated to the Under Secretary (Domestic Finance) by Treasury Order (TO) 100–06, ''Delegation of Authority to the Under Secretary (Domestic Finance) for the Government Securities Act of 1986 and Government Securities Act Amendments of 1993.''

3. *Delegation:* The authority of the Secretary of the Treasury under the Government Securities Act of 1986, and the GSAA of 1993, to exercise and to perform all duties, powers, rights, and obligations under those Acts, which authority is vested in the Under Secretary (Domestic Finance) pursuant to TO 100–06, is hereby redelegated to the Assistant Secretary (Financial Markets).

4. *Redelegation:*

a. The Assistant Secretary (Financial Markets) may redelegate the authority delegated herein to any official under the supervision of the Assistant Secretary or to the Fiscal Assistant Secretary.

b. Matters delegated to the Fiscal Assistant Secretary may, with the consent of the Assistant Secretary (Financial Markets), be redelegated by the Fiscal Assistant Secretary to any official under the supervision of the Fiscal Assistant Secretary.

5. *Authorities:*

a. The Government Securities Act of 1986 (Pub. L. 99–571).

b. The GSAA of 1993 (Pub. L. 103–202).

c. TO 100–06, ''Delegation of Authority to the Under Secretary (Domestic Finance) for the Government Securities Act of 1986 and Government Securities Act Amendments of 1993.''

6. *Cancellation:* Treasury Directive 13–01, ''Delegation of Authority to the Deputy Assistant Secretary (Federal Finance) for the Government Securities Act of 1986 and the Government Securities Act Amendments of 1993'' (''GSAA of 1993''), dated October 18, 1995, is superseded.

7. *Expiration Date:* This Directive shall expire three years from the date of issuance unless cancelled or superseded by that date.

8. *Office of Primary Interest:* Office of the Under Secretary (Domestic Finance).

John D. Hawke, Jr.,

Under Secretary (Domestic Finance).

[FR Doc. 96–6263 Filed 3–14–96; 8:45 am]

BILLING CODE 4810–25–P

Customs Service

[TD 96–24]

Tariff Classification of Headbands and Similar Articles

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final interpretive ruling.

SUMMARY: This document gives notice of the change in classification of certain textile headbands, ponytail holders and similar articles under the Harmonized Tariff Schedule of the United States (HTSUS). In past rulings, Customs has classified certain textile headbands in heading 9615, HTSUS, which provides for, ''[C]ombs, hair-slides and the like; hair pins, curling pins, curling grips, hair curlers and the like, other than those of heading 8516, and parts thereof.'' Classification within heading 9615, HTSUS, was based on Customs'' erroneous assumption that all-textile headbands were a form of ''hair-slide'' and therefore expressly included within this provision of the nomenclature. Customs has since learned that ''hair-slides'' are semi-circular loops of rigid construction that are worn on the head. The rigid component of a hair-slide may or may not be covered with textiles or other materials. Several events transpired which caused Customs to reexamine its classification of textile headbands and ponytail holders within heading 9615, HTSUS. First, at its Tenth Session, the Harmonized System Committee of the World Customs Organization, formerly known as the Customs Cooperation Council, approved certain amendments to the ''Harmonized Commodity Description and Coding System, Explanatory Notes,'' one of which excluded textile headbands from heading 9615, HTSUS. Also, the popularity of all-textile hair accessories led to an increase in the importation of these types of articles. Customs was confronted with the classification of assorted types of textile hair articles, namely ponytail holders and items commercially referred to as ''scrunchies.'' These types of articles were being entered by importers under both heading 9615 and headings 6117 and 6217, HTSUS. Clearly, a reexamination of the classification of these articles was in order and Customs reviewed the language and scope of heading 9615, HTSUS. Customs concluded that the language of heading 9615, HTSUS, implicitly contemplates articles of rigid or semi-rigid construction; this is evidenced by the fact that every article set forth in the heading language is of rigid or semi-rigid construction. On this basis, Customs determined that headbands, ponytail holders and similar articles, made entirely of textile materials, are not classifiable within heading 9615, HTSUS. Moreover, Customs has reviewed numerous newspaper and magazine articles which persuasively establish that textile headbands, ponytail holders and similar articles are treated in the trade and commerce of the United States as ''accessories.'' Based on the foregoing factors, Customs proposed classifying knitted or woven textile headbands, ponytail holders and similar articles in headings 6117 or 6217, HTSUS, respectively, as ''other clothing accessories.'' This proposal was published in a Federal Register document on April 20, 1994. After review of the comments, Customs has determined that textile headbands, ponytail holders and similar holders are classifiable in heading 6117 or 6217, HTSUS, but that such articles of mixed construction should be classified in accordance with General Rule of Interpretation (GRI) 3.

DATES: This decision will be effective as to merchandise entered for consumption, or withdrawn from warehouse for consumption, after June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Hubbard Volenick, Office of Regulations and Rulings, U.S. Customs Service, (202) 482–7050.

SUPPLEMENTARY INFORMATION:

Background

Classification of merchandise under the Harmonized Tariff Schedule of the United States (HTSUS) is in accordance with the General Rules of Interpretation (GRI's) taken in order. GRI 1 provides that classification shall be determined

according to the terms of the headings and any relative section or chapter notes.

Section XI, HTSUS, provides for textiles and textile articles. Heading 6117, HTSUS, provides for other made up clothing accessories, knitted or crocheted. Heading 6217, HTSUS, provides for other made up clothing accessories, not knitted or crocheted. Heading 9615, HTSUS, provides for combs, hair-slides and the like, hairpins, curling pins, curling grips, hair-curlers, and the like, other than those of Heading 8516, and parts thereof.

At its Tenth Session the Harmonized System Committee of the World Customs Organization, formerly known as the Customs Cooperation Council, examined the classification of knitted headbands and approved the following three amendments to the text of the ''Harmonized Commodity Description and Coding System, Explanatory Notes'':

1. *Explanatory Note to Heading 61.17 (page 845, new item (12)): ''Headbands,* used as protection against the cold, to hold the hair in place, etc.''

2. *Explanatory Note for exclusions to Heading 63.07 (page 868, last paragraph, new item (e):* ''Knitted headbands (*heading 61.17*).''

3. *Explanatory Note to Heading 96.15 (page 1611, new last paragraph):*

''This heading *excludes* textile headbands (*Section XI*).''

The ''Explanatory Notes'' to the Harmonized Commodity Description and Coding System (Harmonized System) constitute the official interpretation of the scope and content of the nomenclature at the international level. They represent the considered views of classification experts of the Harmonized System Committee. While not treated as dispositive, the ''Explanatory Notes'' are to be given considerable weight in Customs interpretation of the HTSUS. It has therefore been the practice of the Customs Service to consult the terms of the ''Explanatory Notes'' when interpreting the HTSUS. See T.D. 89–80, 54 FR 35127 (August 23, 1989).

In the past, Customs has classified headbands wholly of textile materials in heading 9615, HTSUS, with the exception of headbands made of terry knit fabric which were classified in heading 6117, HTSUS. The rationale for these decisions was based on Customs' erroneous conclusion that textile headbands met the definition of the term ''hair-slides and the like.'' In the course of preparing Headquarters Ruling Letter (HRL) 089086, dated May 22, 1992, Customs researched the definition of the term ''hair-slide'' and concluded that such articles are of rigid or semi-rigid construction. The pre-amendment Explanatory Notes to heading 9615, HTSUS, supported Customs' interpretation in that they stated that ''hair-slides and the like are usually made of plastics, ivory, bone, horn, tortoise-shell, metal, etc.'' In HRL 089086, Customs concluded that as the textile headband at issue was not of a rigid or semi-rigid material, it was ''incongruous'' with the articles of heading 9615.

In a document published in the Federal Register (59 FR 18771) on April 20, 1994, Customs furnished notice that the classification of the subject merchandise was under review and requested comments from interested parties.

Seven submissions were received in response to that document. All seven opposed the change in classification.

Discussion of Comments

Comment: The U.S. tariff breakout under statistical subheading 9615.19.6010, HTSUS, was intended for textile headbands and ponytail holders.

Response: The HTSUS is a hierarchical system in which articles first must be classified under the applicable four digit heading, then at the six and eight digit levels, and finally at the statistical level. The issue here is whether the subject merchandise is classified in heading 6117 (or 6217), HTSUS, or in heading 9615, HTSUS. A classification analysis of the subject merchandise does not begin with a comparison of headings 6117 or 6217, HTSUS, and a statistical breakout at the ten digit level. An analysis of the language of heading 9615, HTSUS, reveals that this heading covers hair articles of a rigid or semi-rigid construction (*i.e.*, combs, hair-slides, assorted types of curlers and hair pins). The pre-amendment Explanatory Notes to heading 9615, HTSUS, support this interpretation. Accordingly, classification of a textile headband, ponytail holder or similar article, of a non-rigid construction, is inappropriate within heading 9615, HTSUS. Although the commenter correctly notes that subheading 9615.19.6010, HTSUS, provides for hair-slides and the like made ''of textile materials,'' this in no way means that headbands, ponytail holders and similar articles made entirely from textile materials are classifiable here. As stated *supra*, hair articles made entirely from textile materials, of a non-rigid construction, are not classifiable within heading 9615, HTSUS. Subheading 9615.19.6010, HTSUS, contemplates the classification of articles which are, at a minimum, made of a rigid or semi-rigid construction, and which also have textile components. An example of an article classifiable within subheading 9516.19.6010, HTSUS, would be a rigid hair-slide which is covered with a textile.

Lastly, we note that statistical subheadings (10 digit level) are created for statistical purposes; they have no legal effect and generally are not relevant to the classification of merchandise. See 19 U.S.C. 1484(f). Consequently, there is no legal basis for classifying the subject merchandise under subheading 9615.19.6010, HTSUS, based on the alleged intent of the creation of that statistical subheading.

Comment: The contemplated classification change is contrary to prior determinations by U.S. Government agencies.

Response: The concern here is that classifying the subject merchandise in headings 6117 or 6217, HTSUS, would subject the merchandise to quota, which it is not subject to in heading 9615, HTSUS. Some commenters stated that the Committee for the Implementation of Textile Agreements (CITA) had no intention of bringing this merchandise under quota. Textile categories are assigned to certain subheadings at the statistical level; therefore, whether an article is subject to a textile category is dependent on classification of the merchandise. Goods cannot be classified under the HTSUS based on what textile category would apply, but instead must be classified in accordance with the GRI's.

We note that Customs will propose, to the 484(f) Committee, the creation of statistical breakouts within headings 6117 and 6217, HTSUS, for merchandise the subject of this notice, so that such articles could maintain their current treatment concerning quota and visa requirements.

Comment: Classification of the subject merchandise solely by reference to the ''Explanatory Notes'' is contrary to law.

Response: As stated *supra*, classification of the subject merchandise is not based solely upon the Explanatory Notes. Classification of textile headbands, ponytail holders and similar articles within headings 6117 or 6217, HTSUS, is based primarily on these articles' recognized status as accessories and the fact that they are not classifiable within heading 9615, HTSUS, inasmuch as they are not of a rigid or semi-rigid construction. Customs' exclusion of textile headbands, ponytail holders and similar articles from heading 9615, HTSUS, is supported by the Explanatory

Notes, both in their pre-amendment format and in the amended version. As we stated in the Federal Register notice on this issue, we understand that the ''Explanatory Notes'' are not dispositive, but are to be given considerable weight and are to be consulted. That position is consistent with relevant court cases on the issue of the application of the ''Explanatory Notes.'' (See, *e.g., Lynteq, Inc.* v. *United States,* 976 F.2d 693, 699 (1992) (quoting H.R. Conf. Rep. No. 576, 100 Cong., 2d Sess. 549 (1988), *reprinted* in 1988 U.S.C.C.A.N. 1547, 1582), which states ''[although generally indicative of proper interpretation of the various provisions of the [Harmonized Tariff System], the Explanatory Notes * * * are not legally binding.]'' (See also, T.D. 89–80, 54 FR 35127 (August 23, 1989), notice giving guidance for interpretation of Harmonized System, in which it is stated, ''Customs will give considerable weight to Explanatory Notes.'')

Comment: Textile headbands and ponytail holders are not clothing accessories and therefore are not classifiable in headings 6117 and 6217, HTSUS.

Response: The term ''accessory'' is not defined in the tariff schedule or the ''Explanatory Notes.'' Consequently, Customs and the courts have relied on standard lexicographical sources for a definition of the term ''accessory.'' (See *Auto-Ordinance Corp.* v. *U.S.,* 822 F.2d 1566 (Fed. Cir. 1987), and *U.S.* v. *Liebert,* 59 CCPA 43, C.A.D. 1035, 450 F.2d 1405 (1971)) ''Webster's Third New International Dictionary, Unabridged'' (1986) defines ''accessory'' as ''an object or device that is not essential in itself but that adds to the beauty, convenience, or effectiveness of something else * * *. Any of various articles of apparel (as a scarf, belt, or piece of jewelry) that accent or otherwise complete one's costume.''

Textile headbands and ponytail holders accent or otherwise complete one's costume. In addition, these articles can be decorative and add to the beauty of one's costume or function to hold the hair in place and add to the effectiveness of one's costume. We believe textile headbands and ponytail holders meet the definition of ''accessory.'' This position is supported by the manner in which certain textile hair accessories, commercially identified as ''scrunchies,'' are treated in the trade and commerce of the United States. Customs has reviewed numerous newspaper and magazine articles describing ''scrunchy'' ponytail holders and similar items as accessories.

Some commenters argue that clothing accessories are made to be used with a particular item, or are attached or are parts of garments. These commenters argue, therefore, that textile headbands and ponytail holders are not clothing accessories. Many articles are not made to be used with a particular item and are classified as clothing accessories. For example, socks (heading 6115, HTSUS); gloves (headings 6116 and 6216, HTSUS); and scarves (headings 6117 and 6214, HTSUS). In addition, Customs has classified articles as other clothing accessories which are not made to be used with particular articles, e.g., earmuffs, and textile wrist bracelets. Therefore, we do not believe it inconsistent with the classification of other articles as accessories to classify textile headbands and ponytail holders as accessories.

Comment: Since ponytail holders were not excluded from heading 9615, HTSUS, in the amendments to the ''Explanatory Notes,'' they should be classified in heading 9615, HTSUS.

Response: Ponytail holders, both in function and decorative effect, are substantially similar to textile headbands. It would create an artificial distinction to treat these two types of articles differently for tariff classification purposes unless expressly directed to do so by the terms of the tariff schedule. As stated above, we are not classifying textile headbands and ponytail holders within headings 6117 or 6217, HTSUS, based solely on amendments to the ''Explanatory Notes.'' We believe both textile headbands and ponytail holders meet the definition of ''clothing accessories'' and, as discussed in some detail above, they are not classifiable within heading 9615, HTSUS. Consequently, we believe that textile ponytail holders are not classifiable in heading 9615, HTSUS, despite not being specifically excluded from that heading by the ''Explanatory Notes.''

Comment: The knit woolen headband under consideration by the Harmonized System Committee which led to the amendments to the ''Explanatory Notes'' has a different function from many textile headbands.

Response: The language of the amendments to the ''Explanatory Notes'' states that textile headbands are excluded from heading 9615, HTSUS. This exclusionary language is fairly broad and does not indicate that only knit woolen headbands should be excluded from heading 9615, HTSUS. In addition, when the issue of textile headbands was considered by the Harmonized System Committee, comments made by the Secretariat supported this position. For example, the Secretariat stated, ''* * * the articles specifically cited in the text of heading 9615 do not seem in any way related to products of textile materials.'' Thus, we cannot agree that the exclusionary amendment to heading 9615 for textile headbands is in any way limited to knit woolen headbands.

Comment: Heading 9615, HTSUS, is a use provision that encompasses hair ornaments, including headbands and ponytail holders.

Response: Heading 9615, HTSUS, provides for combs, hair-slides and the like, hairpins, curling pins, curling grips, hair curlers, and the like. There is nothing in the language of this heading that indicates that classification is controlled by use. Some commenters have relied on the language of the ''Explanatory Notes,'' which states that heading 9615 covers ''hair slides and the like for holding the hair in place or for ornamental purposes.'' We cannot agree that this language shows that heading 9615, HTSUS, is a use provision. To conclude that all articles used to hold the hair in place or for ornamental purposes are classifiable as hair-slides of heading 9615, HTSUS, would result in many articles erroneously being classified in this heading. For example, such articles as scarves, hats, visors, and other headwear, would be classifiable in heading 9615, HTSUS, when they are clearly classified elsewhere. Consequently, we cannot agree with those commenters who argue that heading 9615, HTSUS, is a use provision.

Comment: The subject merchandise should not be classified on the basis of whether it is of rigid or semi-rigid construction or primarily of textile materials since such language is not contained in the HTSUS or the ''Explanatory Notes.''

Response: The ''Explanatory Notes'' to heading 9615 exclude ''textile headbands,'' but include ''hair-slides and the like'' and note that these articles are usually made of plastics, ivory, bone, horn, tortoise-shell, metal, etc. The language to which the commenters object represents Customs'' interpretation of the scope of the pertinent headings in light of the ''Explanatory Notes'' and absent any lexicographic definitions for ''hair slides and the like.''

Some commenters have suggested that those articles of mixed construction, e.g., textiles and plastics, are *prima facie,* classifiable in two headings, either heading 6117 or 6217, HTSUS, (depending on whether of knit or other textile, e.g., woven construction), and heading 9615, HTSUS. In those cases, the commenters argued that the

remaining GRI's should be applied, specifically GRI 3.

GRI 3 states that when, by application of rule 2(b) or for any other reason, goods are, *prima facie,* classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

After careful consideration of these comments, we believe they have merit. By application of GRI 1, headbands, ponytail holders and similar articles, of mixed construction, are classifiable in heading 6117 or 6217, HTSUS, and heading 9615, HTSUS, and therefore GRI 3 provides the relevant analysis.

GRI 3(a) does not apply when two or more headings each refer to part only of the materials in a good. Note 1 to Chapter 61, HTSUS, states that this chapter applies only to made up knitted or crocheted articles. Similarly, Note 1 to Chapter 62, HTSUS, states that this chapter applies only to made up articles of any textile fabric other than wadding, excluding knitted or crocheted articles. Thus, articles of headings 6117 and 6217, HTSUS, are textiles. These headings refer to only part of the good when it is made of mixed construction, e.g., textiles and plastics. Similarly, heading 9615, HTSUS, which according to the ''Explanatory Notes'' normally refers to goods made of plastics, ivory, bone, horn, tortoise-shell, metal, etc., refers to only part of the good when it is made of mixed construction, e.g., plastic and textiles. Thus, GRI 3(a) is inapplicable.

The subject goods of mixed construction, therefore, would be classifiable in accordance with GRI 3(b), and an essential character determination must be made. This would be done on a case by case basis. In many cases, we believe that articles of mixed construction would remain classifiable in heading 9615, HTSUS. For example, a barrette or clasp of plastic or metal decorated or covered with textile material normally would be classified in heading 9615, HTSUS, since the essential character of the article is imparted by the base, which functions to hold the hair in place. There may be circumstances where neither the textile nor non-textile component imparts the essential character, in which case classification would be in accordance with GRI 3(c).

Conclusion

After careful analysis of the comments submitted and further study of this matter, Customs finds that textile headbands, ponytail holders and similar articles are classified as other clothing accessories of heading 6117 or 6217, HTSUS. Those articles of mixed construction, textiles and another material, e.g., plastics, will be classified in accordance with GRI 3.

To allow sufficient time for interested parties to be aware of this change and to make necessary arrangements, this change in classification is being delayed 90 days from the date of publication in the Federal Register.

George J. Weise,

Commissioner of Customs.

Approved: February 16, 1996.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–6144 Filed 3–14–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

[EE–14–81]

Proposed Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning an existing notice of proposed rulemaking, EE–14–81, Deductions and Reductions in Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations (Regulation § 1.04A).

DATES: Written comments should be received on or before May 14, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Deductions and Reductions in Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

OMB Number: 1545–1393.

Regulation Project Number: EE–14–81 Notice of Proposed Rulemaking.

Abstract: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or accumulated profits) for certain foreign deferred compensation plans.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,250.

Estimated Time Per Respondent: The estimated annual reporting burden per respondent varies from 5 hours to 1,000 hours, depending on individual circumstances, with an estimated average of 507.56 hours.

Estimated Total Annual Burden Hours: 634,450 hours.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. 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.

Approved: March 6, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–6154 Filed 3–14–96; 8:45 am]

BILLING CODE 4830–01–U

Art Advisory Panel of the Commissioner of Internal Revenue; Availability of Report of 1995 Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of availability of report on closed meetings of the Art Advisory Panel.

SUMMARY: The report is now available.

Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act; and 5 U.S.C. 552b, the Government in the Sunshine Act: A report summarizing the closed meeting activities of the Art Advisory Panel during 1995, has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management and is now available for public inspection at: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue, NW., Washington, DC 20224.

Requests for copies should be addressed to: Director, Disclosure Operations Division, Attn: FOI Reading Room, Box 388, Benjamin Franklin Station, Washington, DC 20224, Telephone (202) 622–5164, (Not a toll free telephone number).

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

For further information contact: Karen Carolan, C:AP:AS:4, 901 D Street, SW. Room 224, Washington, DC 20024, Telephone (202) 401–4128, (Not a toll free telephone number).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–6164 Filed 3–14–96; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INSTITUTE OF PEACE

Sunshine Act Meeting

AGENCY: United States Institute of Peace.

DATE/TIME: Thursday, March 21, 1996—9:00 a.m.–5:00 p.m.

LOCATION: U.S. Institute of Peace, 1550 M Street, Lobby Conference Room, Washington, DC 20005, (202) 457–1700.

STATUS: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: March Board Meeting; Approval of Minutes of the Seventy-fourth Meeting of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Approval of Solicited Grant and Fellowship Applications; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: March 12, 1996.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 96–6423 Filed 3–13–96; 2:36 pm]

BILLING CODE 6820–AR–M

Corrections

Federal Register
Vol. 61, No. 52
Friday, March 15, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 510, 515, 538 and 552

[ADP 2800.12A, CHGE 70]
RIN 3090-AF86

General Services Administration Acquisition Regulation; Acquisition of Commercial Items

Correction

In rule document 96–3593 beginning on page 6164 in the issue of Friday, February 16, 1996, make the following corrections:

510.011 [Corrected]

1. On page 6165, in the second column, in amendatory instruction 9 to section 510.011, in the fourth line, the cite should read ''48 CFR 552.211-71''.

515.804-6 [Corrected]

2. On page 6167, in the 2d column, in section 515.804-6(a), in the 10th line, ''request'' should read ''requests''; and in the 13th line, ''provisions'' should read ''provision''.

538.270 [Corrected]

3. On page 6169, in the first column, in section 538.270(d), at the end of the fourth line insert ''the MAS solicitation with the terms and conditions of''.

552.212-71 [Corrected]

4. On page 6171, in the second column, in section 552.212-71, in the list of clauses, the fourth and fifth clauses should read:

* * * * *

—552.215-71 Examination of Records by GSA (Multiple Award Schedule)
—552.215-72 Price Adjustment for Incomplete, Not Current or Inaccurate Information Other Than Cost or Pricing Data

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552.216-71 [Corrected]

5. On page 6172, in the second column, in amendatory instruction 59 to section 552.216-71, in the last line, ''Price'' should ''Practice''.

552.243-72 [Corrected]

6. On page 6173, in the first column, in section 552.243-72, paragraph (b)(4)(ii) of the clause, in the second line from the bottom, ''basic'' should read ''basis''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-050-1430-01; COC-57167 et al]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classifications; Colorado

Correction

In notice document 96–4675 beginning on page 7802 in the issue of Thursday, February 29, 1996, make the following correction:

On page 7802, in the third column, in the first land description of the Sixth Principal Meridian, T.3S., R.72W., in the third Sec. 26, the last line should read ''SW¼SW¼;''.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-21792; 812-10016]

McDonald & Company Securities, Inc., et al.; Temporary Order

Correction

In notice document 96–5217 beginning on page 8987 in the issue of Wednesday, March 6, 1996, make the following correction:

On page 8987, in the third column, under **HEARING OR NOTIFICATION OF HEARING**, the third sentence should read:

* * * * *

Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1996 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service.

* * * * *

BILLING CODE 1505–01–D

federal register

Friday
March 15, 1996

Part II

Department of Housing and Urban Development

24 CFR Part 791

Allocation of Budget Authority for Housing Assistance; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 791

[Docket No. FR–4024–F–01]

RIN 2501–AC17

Allocation of Budget Authority for Housing Assistance

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations for the allocation of budget authority for housing assistance. In an effort to comply with the President's regulatory reform initiatives, this rule streamlines the regulations by eliminating provisions that are redundant of statutes or are otherwise unnecessary, making them clearer and more concise.

In addition, this rule revises the regulations to reflect organizational initiatives within Headquarters, as well as the Department's reinvention of the field office structure in Fiscal Year 1994, which eliminated the regional office management layer and delegated the authority to the State and Area offices.

EFFECTIVE DATE: April 15, 1996.

FOR FURTHER INFORMATION CONTACT: For the Public and Indian Housing programs, and the Section 8 voucher, certificate, and moderate rehabilitation programs: Nanci E. Gelb, Director, PIH Budget Division, Room 4230, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Telephone: (202) 708–0614. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–0850.

For other assisted housing programs: Karen Daly, Acting Director, Office of Policy, Assistant Secretary for Housing, Room 9220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000. Telephone: (202) 708–4135. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 755–4594.

(These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION 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 ''Allocation of Budget Authority for Housing Assistance'' can be improved and streamlined by eliminating unnecessary provisions.

Some provisions in the regulations are now obsolete. For instance, this rule removes Subpart B which contains obsolete regulations regarding the Housing Assistance Plan (HAP). The HAP has been superseded by the comprehensive affordability strategy (and consolidated plan). Moreover, the Department now uses a grant mechanism for the Section 202 program as a result of statutory changes in 1990; hence, references in the regulations to loan authority for the Section 202 program, and in general, have been deleted.

Finally, some provisions in the regulations are not statutory requirements. Section 791.403(a) included a statement that the Assistant Secretaries for Housing and for Public and Indian Housing would confer to determine how the available budget authority should be allocated. Given recent appropriations treatment of the Section 8 programs, such consultation is no longer needed. Therefore, this provision has been eliminated.

Justification for Final 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.

Other Matters

Regulatory Flexibility Act

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 does not have a significant economic impact on a substantial number of small entities. The rule revises existing procedures for the allocation of housing assistance funds and for local government and HUD review of applications for housing assistance, but makes no change in the economic impact of these procedures on small entities.

Environmental Impact

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

Executive Order 12612, Federalism

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

Executive Order 12606, The Family

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

List of Subjects in 24 CFR Part 791

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

Accordingly, pursuant to the Secretary's authority under 42 U.S.C. 3535(d), 24 CFR part 791 is revised as follows:

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

Subpart A—General Provisions

Sec.
791.101 Applicability and scope.
791.102 Definitions.

Subpart B—[Reserved]

Subpart C—Applications for Housing Assistance

791.301 General.
791.302 Finding of need for housing assistance.
791.303 Notification of local government.
791.304 Review and comment period.
791.305 HUD review of applications for housing assistance.

Subpart D—Allocation of Budget Authority for Housing Assistance

791.401 General.
791.402 Determination of low-income housing needs.
791.403 Allocation of housing assistance.
791.404 Field Office allocation planning.
791.405 Reallocations of budget authority.
791.406 Competition.
791.407 Headquarters Reserve.

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

Subpart A—General Provisions

§ 791.101 Applicability and scope.

This part describes the roles and responsibilities of HUD and local governments under section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437). It applies to the allocation of budget authority, and the review and approval of applications for housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437–1437q), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and with respect to subpart D only, section 202 of the Housing Act of 1959 (12 U.S.C. 1710q), except as follows:

(a) This part does not apply to programs for public housing operating subsidy, public housing modernization, or rental rehabilitation grant assistance under section 9, 14, or 17 of the United States Housing Act of 1937; and

(b) Subpart D of this part does not apply to the allocation of budget authority for housing development grant assistance under section 17 of the U.S. Housing Act of 1937.

§ 791.102 Definitions.

Act. The Housing and Community Development Act of 1974 (42 U.S.D. 1437), as amended.

Allocation area. A municipality, county, or group of municipalities or counties or Indian areas identified by the HUD field office for the purpose of allocating housing assistance.

Application for housing assistance. The first submission to HUD for housing assistance under one of the programs identified in § 791.101(a). For the purposes of this part, the term includes an application, a preliminary proposal, or a proposal, so long as it meets the applicable program regulations. For the public housing program, the first application identifying a project site will be considered the application for housing assistance.

Assistant Secretary. The Assistant Secretary for Housing or the Assistant Secretary for Public and Indian Housing, as appropriate to the housing assistance under consideration.

Budget authority. The maximum amount authorized by the Congress for payments over the term of assistance contracts.

Chief executive officer. The elected official or legally designated official who has the primary responsibility for conducting the governmental affairs of a unit of general local government. Examples of the ''chief executive officer'' include: the elected mayor of a municipality; the elected county executive of a county; the presiding officer of a county commission or board in a county that has no elected county executive; the official designated by the governing body of the local government pursuant to law (e.g., the city manager or city administrator); and the chairman, governor, chief or president of an Indian tribe or Alaskan native village.

Fiscal year. The official operating period of the Federal government, beginning on October 1 and ending on September 30.

Household type. The three household types are: elderly, small family, and large family. References to household type shall mean the household type within the appropriate tenure type.

Housing type. The three housing types are:

(1) New construction;
(2) Rehabilitation; and
(3) Existing housing.

Local government. Any city, county, town, township, parish, village or other unit of general local government which is a general purpose political subdivision of a State or the Commonwealth of Puerto Rico; Guam, the Commonwealth of the Northern Marianas, the Virgin Islands and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary of HUD: the District of Columbia; the former Trust Territories of the Pacific Islands, as applicable ; Indian tribes, bands, groups and nations, including Alaska Indians, Aleuts and Eskimos; and any Alaskan native village of the United States. The term also includes a State or local public body or agency, community association, or other entity which is approved by HUD to provide public facilities or services to a new community meeting the requirements of Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901) or Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501).

Metropolitan area. See MSA.

MSA. A metropolitan statistical area established by the Office of Management and Budget. The term also includes primary metropolitan statistical areas (PMSAs), which are the component parts of larger urbanized areas designated as consolidated metropolitan statistical areas (CMSAs). Where an MSA is divided among two or more field offices, references to an MSA mean the portion of the MSA within the State/Area Office jurisdiction.

Public housing agency. Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income families.

Tenure type. The two tenure types are owners and renters.

Urban county. Any county within a metropolitan area which is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, and which meets the other requirements of 24 CFR 570.307 for qualification as an urban county.

Subpart B—[Reserved]

Subpart C—Applications for Housing Assistance

§ 791.301 General.

This subpart C establishes the policies and procedures governing reviews and determinations, pursuant to section 213(c) of the Act, with respect to applications for housing assistance, under the programs identified in § 791.101(a).

§ 791.302 Finding of need for housing assistance.

With respect to each application for housing assistance, the field office is required to make a determination as to whether there is a need for such housing and whether the public facilities and services available in the area will be adequate to serve the proposed housing.

(a) The initial determination of need for housing assistance within an allocation area is made as part of the allocation process in § 791.404. In making this determination, the field office shall give consideration to the contents of any applicable State or areawide housing plan proposing housing assistance in the area, as well as generally available data on population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to low-income housing needs.

(b) Prior to making a determination with regard to a specific application, the field office shall give the local government in which the proposed assistance is to be provided an opportunity to provide comments, during a 30-calendar-day period, concerning the need for housing assistance and the adequacy of public facilities and services. If the local government finding is negative, it must be accompanied by supporting evidence.

§ 791.303 Notification of local government.

(a) The field office shall notify the chief executive officer no later than 10 working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing) that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

(1) When the application is for housing assistance in newly constructed or rehabilitated housing within the overlapping jurisdictions of more than one local government (e.g., a municipality which is also within a county), the field office shall notify the chief executive officer of each local government.

(2) When the application is for housing assistance in newly constructed or rehabilitated housing within several nonoverlapping political jurisdictions (e.g., a scattered site project), the field office shall notify the chief executive officer of each local government where housing assistance is proposed.

(3) For a Section 8 existing housing, moderate rehabilitation, or housing voucher application submitted in accordance with 24 CFR part 982, the field office shall notify the chief executive officers of the localities that are identified in the application as:

(i) Primary areas from which households to be assisted under the existing housing program will be drawn; or

(ii) Primary areas in which units will be rehabilitated under the moderate rehabilitation program.

(b) The notification to the chief executive officer shall:

(1) Indicate that the field office has received and is considering an application for housing assistance, and identify the housing program, the housing type, the number of units by bedroom size and household type, and the proposed location(s).

(2) Invite the submission, within a period of 30 calendar days from the date of the field office letter, of a statement on behalf of the local government concerning the need for housing assistance and the adequacy of public facilities and services and any other comments which are relevant to a determination by the field office concerning the proposed housing assistance (e.g., comments on the site; whether the project is approvable under local codes and zoning ordinances).

§ 791.304 Review and comment period.

The chief executive officer shall have a 30-calendar day comment period, beginning on the date of the notification letter described in § 791.303, to submit written comments relevant to a determination by the field office concerning the approval of an application for housing assistance. The field office shall consider the comment period closed when the written comments are received. In no case shall the Program Office Director in the field office be obligated to consider subsequent or revised comments unless the initial response indicated that additional comments would be provided and such comments are received prior to the expiration of the 30-day comment period. As an alternative to this process, the chief executive officer may submit any comments on the application with the application at the time it is submitted to HUD. Such early comment shall state whether such comment is intended to be the final comment, notwithstanding the 30-day period otherwise provided under this paragraph.

§ 791.305 HUD review of applications for housing assistance.

(a) The field office shall not approve an application for housing assistance prior to either:

(1) Receipt of comments pursuant to § 791.304; or

(2) Expiration of the 30-day comment period, whichever occurs earlier.

(b) In determining whether an application will be approved, the field office shall consider the comments provided by the local government including comments submitted by the chief executive officer on behalf of the local government. The field office shall make an independent determination as to whether there is a need for housing assistance and whether facilities and services are adequate before approving the application.

(c) The field office shall promptly notify both the chief executive officer and the applicant of the HUD determination with respect to the approval or disapproval of the application for housing assistance.

Subpart D—Allocation of Budget Authority for Housing Assistance

§ 791.401 General.

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

§ 791.402 Determination of low-income housing needs.

(a) Before budget authority is allocated, the Assistant Secretary for Policy Development and Research shall determine the relative need for low-income housing assistance in each HUD field office jurisdiction. This determination shall be based upon data from the most recent, available decennial census and, where appropriate, upon more recent data from the Bureau of the Census or other Federal agencies, or from the American Housing Survey.

(b) Except for paragraph (c) of this section, the factors used to determine the relative need for assistance shall be based upon the following criteria:

(1) *Population.* The renter population;

(2) *Poverty.* The number of renter households with annual incomes at or below the poverty level, as defined by the Bureau of the Census;

(3) *Housing overcrowding.* The number of renter-occupied housing units with an occupancy ratio of 1.01 or more persons per room;

(4) *Housing vacancies.* The number of renter housing units that would be required to maintain vacancies at levels typical of balanced market conditions;

(5) *Substandard housing.* The number of housing units built before 1940 and occupied by renter households with annual incomes at or below the poverty level, as defined by the Bureau of the Census; and

(6) *Other objectively measurable conditions.* Data indicating potential need for rental housing assistance, such as the number of renter households with incomes below specified levels and paying a gross rent of more than 30 percent of household income.

(c)(1) For the section 202 elderly program, the data used shall reflect relevant characteristics of the elderly population. The data shall use the criteria specified in paragraph (b)(1) and (6) of this section, as modified to apply specifically to the needs of the elderly population.

(2) Budget authority for the Indian housing program under 24 CFR part 905 shall be allocated on the basis of the relative housing needs of the Indian tribal population, as measured by the Bureau of Indian Affairs, and by data for non-BIA recognized groups served by the Indian housing program.

(d) Based on the criteria in paragraphs (b) and (c)(1) of this section, the Assistant Secretary for Policy Development and Research shall establish housing needs factors for each county and independent city in the field office jurisdiction, and shall aggregate the factors into metropolitan and nonmetropolitan totals for the field office. The field office total for each metropolitan and nonmetropolitan factor is then divided by the respective national total for that factor. The resulting housing needs ratios under paragraph (b) of this section are then weighted to provide metropolitan and nonmetropolitan housing needs percentages for each field office, using the following weights: Population, 20 percent; poverty, 20 percent; housing overcrowding, 10 percent; housing vacancies, 10 percent; substandard housing, 20 percent; other objectively measurable conditions, 20 percent. For the section 202 elderly program, the two criteria described in paragraph (c)(1) of this section are weighted equally.

(e) The Assistant Secretary for Policy Development and Research shall adjust the housing needs percentages derived in paragraph (d) of this section to reflect the relative cost of providing housing among the field office jurisdictions.

§ 791.403 Allocation of housing assistance.

(a) The total budget authority available for any fiscal year shall be determined by adding any available, unreserved budget authority from prior fiscal years to any newly appropriated budget authority for each housing program. On a nationwide basis, at least 20 percent, but not more than 25 percent, of the total budget authority available for any fiscal year, which is allocated pursuant to paragraph (b)(2) of this section and any amounts which are retained pursuant to § 791.407, shall be allocated for use in nonmetropolitan areas.

(b) Budget authority available for the fiscal year, except for that retained pursuant to § 791.407, shall be allocated to the field offices as follows:

(1) Budget authority shall be allocated as needed for uses that the Secretary determines are incapable of geographic allocation by formula, including—

(i) Amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public and Indian housing, assistance in support of the property disposition and loan management functions of the Secretary;

(ii) Assistance which is—

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

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

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

(iii) Assistance determined by the Secretary to be necessary in carrying out the following programs authorized by the Cranston-Gonzalez National Affordable Housing Act: the Homeownership and Opportunity Through HOPE Act under title IV and HOPE for Elderly Independence under section 803.

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

(c) At least annually HUD will publish a notice in the Federal Register informing the public of all allocations under § 791.403(b)(2).

§ 791.404 Field Office allocation planning.

(a) *General objective.* The allocation planning process should provide for the equitable distribution of available budget authority, consistent with the relative housing needs of each allocation area within the field office jurisdiction.

(b) *Establishing allocation areas.* Allocation areas, consisting of one or more counties or independent cities, shall be established by the field office in accordance with the following criteria:

(1) Each allocation shall be to the smallest practicable area, but of sufficient size so that at least three eligible entities are viable competitors for funds in the allocation area, and so that all applicable statutory requirements can be met. (It is expected that in many instances individual MSAs will be established as metropolitan allocation areas.) For the section 202 program for the elderly, the allocation area must include sufficient units to promote a meaningful competition among disparate types of providers of such housing (e.g., local as well as national sponsors, minority as well as non-minority sponsors). The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.

(2) Each allocation area shall also be of sufficient size, in terms of population and housing need, that the amount of budget authority being allocated to the area will support at least one feasible program or project.

(3) In establishing allocation areas, counties and independent cities within MSAs should not be combined with counties that are not in MSAs.

(c) *Determining the amount of budget authority.* Where the field office establishes more than one allocation area, it shall determine the amount of budget authority to be allocated to each allocation area, based upon a housing needs percentage which represents the needs of that area relative to the needs of the metropolitan or nonmetropolitan portion of the field office jurisdiction, whichever is appropriate. For each program, a composite housing needs percentage developed under § 791.402

for those counties and independent cities comprising the allocation area shall be aggregated into allocation area totals.

(d) *Planning for the allocation.* The field office should develop an allocation plan which reflects the amount of budget authority determined for each allocation area in paragraph (c). The plan should include a map or maps clearly showing the allocation areas within the field office jurisdiction. The relative share of budget authority by individual program type need not be the same for each allocation area, so long as the total amount of budget authority made available to the allocation area is not significantly reduced.

§ 791.405 Reallocations of budget authority.

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

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

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

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

§ 791.406 Competition.

(a) All budget authority allocated pursuant to § 791.403(b)(2) shall be reserved and obligated pursuant to a competition. Any such competition shall be conducted pursuant to specific criteria for the selection of recipients of assistance. These criteria shall be contained in a regulation promulgated after notice and public comment or, to the extent authorized by law, a notice published in the Federal Register.

(b) This section shall not apply to assistance referred to in §§ 791.403(b)(1) and 791.407.

§ 791.407 Headquarters Reserve.

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

(1) Unforeseen housing needs resulting from natural and other disasters, including hurricanes, tornadoes, storms, high water, wind driven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, landslides, mudslides, snowstorms, drought, fires, floods, or explosions, which in the determination of the Secretary cause damage of sufficient severity and magnitude to warrant Federal housing assistance;

(2) Housing needs resulting from emergencies, as certified by the Secretary, other than disasters described in paragraph (a)(1) of this section. Emergency housing needs that can be certified are only those that result from unpredictable and sudden circumstances causing housing deprivation (such as physical displacement, loss of Federal rental assistance, or substandard housing conditions) or causing an unforeseen and significant increase in low-income housing demand in a housing market (such as influx of refugees or plant closings);

(3) Housing needs resulting from the settlement of litigation; and

(4) Housing in support of desegregation efforts.

(b) Applications for funds retained under paragraph (a) of this section shall be made to the field office, which will make recommendations to Headquarters for approval or rejection of the application. Applications generally will be considered for funding on a first-come, first-served basis. Specific instructions governing access to the Headquarters Reserve shall be published by notice in the Federal Register, as necessary.

(c) Any amounts retained in any fiscal year under paragraph (a) of this section that are not reserved by the end of such fiscal year shall remain available for the following fiscal year in the program under § 791.101(a) from which the amount was retained. Such amounts shall be allocated pursuant to § 791.403(b)(2).

Dated: March 7, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–6162 Filed 3–14–96; 8:45 am]

BILLING CODE 4210–32–P

federal register

Friday
March 15, 1996

Part III

National Archives and Records Administration

32 CFR Chapter XX and Part 2001

Classified National Security Information; Final Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

32 CFR Chapter XX and Part 2001

[Directive No. 1: Appendix A]

Information Security Oversight Office; Classified National Security Information

AGENCY: Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

ACTION: Bylaws of the Interagency Security Classification Appeals Panel.

SUMMARY: The Information Security Oversight Office, National Archives and Records Administration, is publishing the bylaws of the Interagency Security Classification Appeals Panel (ISCAP) in accordance with section 5.4(c) of Executive Order 12958, ''Classified National Security Information.'' Under the terms of E.O. 12958, the Director of ISOO serves as Executive Secretary to the ISCAP. These bylaws are being published as Appendix A to Part 2001, the Executive Order's implementing Directive No. 1, issued by the Director of the Office of Management and Budget (OMB) on October 13, 1995, while ISOO remained a component of OMB. With the enactment of the Treasury, Postal Service and General Government Appropriations Act for Fiscal Year 1996, ISOO became a component of the National Archives and Records Administration.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Executive Secretary, Interagency Security Classification Appeals Panel. Telephone: 202–219–5250.

SUPPLEMENTARY INFORMATION: This amendment is issued pursuant to the provisions of Section 5.4(c) of Executive Order 12958 published April 20, 1995 (60 CFR 19825). The ISCAP performs several critical functions in implementing several provisions of E.O. 12958. These include: (a) deciding appeals brought by authorized persons who have filed classification challenges under section 1.9 of the Order; (b) approving, denying or amending agency exemptions from automatic declassification, as provided in section 3.4(d) of the Order; and (c) deciding on appeals by parties whose requests for declassification of information under section 3.6 of the Order have been denied. These bylaws describe the procedures to be followed by individuals or organizations who wish to bring matters before the ISCAP, and the procedures that the ISCAP will follow to resolve these matters.

List of Subjects in 32 CFR Part 2001

Archives and records, Authority delegations (Government agencies), Classified information, Executive orders, Freedom of information, Information, Intelligence, National defense, National security information, Presidential documents, Security information, Security measures.

CHAPTER XX—INFORMATION SECURITY OVERSIGHT OFFICE, NATIONAL ARCHIVES AND RECORDS SERVICE

Title 32 of the Code of Federal Regulations, chapter XX, is amended as follows:

1. The heading of chapter XX is revised to read as set forth above.

PART 2001—CLASSIFIED NATIONAL SECURITY INFORMATION

2. The authority citation of part 2001 is revised to read as follows:

Authority: Section 5.2 (a) and (b), and section 5.4, E.O. 12958, 60 FR 19825, April 20, 1995.

3. Part 2001 is amended by adding Appendix A to read as follows:

Appendix A to Part 2001—Interagency Security Classification Appeals Panel Bylaws

Article I. Purpose

The purpose of the Interagency Security Classification Appeals Panel (ISCAP) and these bylaws is to fulfill the functions assigned to the ISCAP by Executive Order 12958, ''Classified National Security Information.''

Article II. Authority

Executive Order 12958, ''Classified National Security Information'' (hereafter the ''Order''), and its implementing directives.

Article III. Membership

A. Primary Membership. Appointments under section 5.4(a) of the Order establish the primary membership of the ISCAP.

B. Alternate Membership.

1. Primary members are expected to participate fully in the activities of the ISCAP. The Executive Secretary shall request that each agency or office head represented on the ISCAP also designate in writing addressed to the Chair an alternate to represent his or her agency or office on all occasions when the primary member is unable to participate. When serving for a primary member, an alternate member shall assume all the rights and responsibilities of that primary member, including voting.

2. When a vacancy in the primary membership occurs, the designated alternate shall represent the agency or office until the agency or office head fills the vacancy. The Chair, working through the Executive Secretary, shall take all appropriate measures to encourage the agency or office head to fill a vacancy in the primary membership as quickly as possible.

C. Chair. As provided in section 5.4(a) of the Order, the President shall select the Chair from among the primary members.

D. Vice Chair. The members may elect from among the primary members a Vice Chair who shall:

1. Chair meetings that the Chair is unable to attend; and

2. Serve as Acting Chair during a vacancy in the Chair of the ISCAP.

Article IV. Meetings

A. Purpose. The primary purpose of ISCAP meetings is to discuss and bring formal resolution to matters before the ISCAP.

B. Frequency. As provided in section 5.4(a) of the Order, the ISCAP shall meet at the call of the Chair, who shall schedule meetings as may be necessary for the ISCAP to fulfill its functions in a timely manner. The Chair shall also convene the ISCAP when requested by a majority of its primary members.

C. Quorum. Meetings of the ISCAP may be held only when a quorum is present. For this purpose, a quorum requires the presence of at least five primary or alternate members.

D. Attendance. As determined by the Chair, attendance at meetings of the ISCAP shall be limited to those persons necessary for the ISCAP to fulfill its functions in a complete and timely manner.

E. Agenda. The Chair shall establish the agenda for all meetings. Potential items for the agenda may be submitted to the Chair by any member or the Executive Secretary. Acting through the Executive Secretary, the Chair will distribute the agenda and supporting materials to the members as soon as possible before a scheduled meeting.

F. Minutes. The Executive Secretary shall be responsible for the preparation of each meeting's minutes, and the distribution of draft minutes to each member. The minutes will include a record of the members present at the meeting and the result of each vote. At the subsequent meeting of the ISCAP, the Chair will read or reference the draft minutes of the previous meeting. At that time the minutes will be corrected, as necessary, and approved by the membership and certified by the Chair. The approved minutes will be maintained among the records of the ISCAP.

Article V. Voting

A. Motions. When a decision or recommendation of the ISCAP is required to resolve a matter before it, the Chair shall request or accept a motion for a vote. Any member, including the Chair, may make a motion for a vote. No second shall be required to bring any motion to a vote. A quorum must be present when a vote is taken.

B. Eligibility. Only the members, including the Chair, may vote on a motion before the ISCAP, with each agency or office represented having one vote.

C. Voting Procedures. Votes shall ordinarily be taken and tabulated by a show of hands.

D. Passing a Motion. In response to a motion, members may vote affirmatively, negatively, or abstain from voting. Except as otherwise provided in these bylaws, a motion

passes when it receives a majority of affirmative votes of the members voting. However, in no instance will the ISCAP reverse an agency's decision without the affirmative vote of at least a majority of the members present.

E. Votes in a Non-meeting Context. In extraordinary circumstances, the Chair may call for a vote of the membership outside the context of a formal ISCAP meeting. An alternate member may also participate in such a vote if the primary member cannot. The Executive Secretary shall record and retain such votes in a documentary form and immediately report the results to the Chair and other primary and alternate members.

Article VI. First Function: Appeals of Agency Decisions Regarding Classification Challenges

In accordance with section 5.4(b) of the Order, the ISCAP shall decide on appeals by authorized persons who have filed classification challenges under section 1.9 of the Order.

A. Jurisdiction. The ISCAP will consider appeals from classification challenges that otherwise meet the standards of the Order if:

1. The appeal is filed in accordance with these bylaws;

2. The appellant has previously challenged the classification action at the agency that originated or is otherwise responsible for the information in question in accordance with the agency's procedures or, if the agency has failed to establish procedures for classification challenges, by filing a written challenge directly with the agency head or designated senior agency official, as defined in section 1.1(j) of the Order;

3. The appellant has

(a) Received a final agency decision denying his or her challenge; or

(b) Not received (i) an initial written response to the classification challenge from the agency within 120 days of its filing, or (ii) a written response to an internal agency appeal within 90 days of the filing of the appeal;

4. There is no action pending in the federal courts regarding the information in question; and

5. The information in question has not been the subject of review by the federal courts or the ISCAP within the past two years.

B. Addressing of Appeals. Appeals should be addressed to: Executive Secretary, Interagency Security Classification Appeals Panel, Attn: Classification Challenge Appeals, c/o Information Security Oversight Office, National Archives and Records Administration, 7th and Pennsylvania Avenue, NW., Room 5W, Washington, DC 20408.

The appeal must contain enough information for the Executive Secretary to be able to obtain all pertinent documents about the classification challenge from the affected agency. No classified information should be included within the initial appeal document. The Executive Secretary will arrange for the transmittal of classified information from the agency after receiving the appeal. If it is impossible for the appellant to file an appeal without including classified information, prior arrangements must be made by contacting the Information Security Oversight Office.

C. Timeliness of Appeals. An appeal to the ISCAP must be filed within 60 days of:

1. The date of the final agency decision; or

2. The agency's failure to meet the time frames established in paragraph (A)(3)(b) of this Article.

D. Rejection of Appeal. If the Executive Secretary determines that the appeal does not meet the requirements of the Order or these bylaws, the Executive Secretary shall notify the appellant in writing that the appeal will not be considered by the ISCAP. The notification shall include an explanation of why the appeal is deficient.

E. Preparation. The Executive Secretary shall notify the Chair and the designated senior agency official(s) of the affected agency(ies) when an appeal is lodged. Under the direction of the ISCAP, the Executive Secretary shall supervise the preparation of an appeal file, pertinent portions of which will be presented to the members of the ISCAP for their review prior to a vote on the appeal. The appeal file will eventually include all records pertaining to the appeal.

F. Resolution of Appeals. The ISCAP may vote to affirm the agency's decision, to reverse the agency's decision in whole or in part, or to remand the matter to the agency for further consideration. A decision to reverse an agency's decision requires the affirmative vote of at least a majority of the members present.

G. Notification. The Executive Secretary shall promptly notify in writing the appellant, the agency head, and designated senior agency official of the ISCAP's decision.

H. Agency Appeals. Within 60 days of receipt of an ISCAP decision that reverses a final agency decision, the agency head may petition the President through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

I. Protection of Classified Information. All persons involved in the appeal shall make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the appeal file shall be handled and protected in accordance with the Order and its implementing directives. Information being challenged for classification shall remain classified unless and until a final decision is made to declassify it. In no instance will the ISCAP declassify properly classified information solely because of an agency's failure to prescribe or follow appropriate procedures for handling classification challenges.

J. Maintenance of File. The Executive Secretary shall maintain the appeal file among the records of the ISCAP.

Article VII. Second Function: Review of Agency Exemptions From Automatic Declassification

In accordance with section 5.4(b) of the Order, the ISCAP shall approve, deny or amend agency exemptions from automatic declassification as provided in section 3.4(d) of the Order.

A. Agency Notification of Exemptions. The agency head or designated senior agency official shall notify the Executive Secretary of agency exemptions in accordance with the requirements of the Order and its implementing directives. Agencies shall provide any additional information or justification that the Executive Secretary believes is necessary or helpful in order for the ISCAP to review and decide on the exemption. The agency head may seek relief from the ISCAP from any request for information by the Executive Secretary to which the agency objects.

B. Preparation. The Executive Secretary shall notify the Chair of the agency submission. At the direction of the ISCAP, the Executive Secretary shall supervise the preparation of an exemption file, pertinent portions of which will be presented to the members of the ISCAP for their review prior to a vote on the exemptions. The exemption file will eventually include all records pertaining to the ISCAP's consideration of the agency's exemptions.

C. Resolution. The ISCAP may vote to approve an agency exemption, to deny an agency exemption, to amend an agency exemption, or to remand the matter to the agency for further consideration. A decision to deny or amend an agency exemption requires the affirmative vote of a majority of the members present.

D. Notification. The Executive Secretary shall promptly notify in writing the agency head and designated senior agency official of the ISCAP's decision.

E. Agency Appeals. Within 60 days of receipt of an ISCAP decision that denies or amends an agency exemption, the agency head may petition the President through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

F. Protection of Classified Information. Any classified information contained in the exemption file shall be handled and protected in accordance with the Order and its implementing directives. Information that the agency maintains is exempt from declassification shall remain classified unless and until a final decision is made to declassify it.

G. Maintenance of File. The Executive Secretary shall maintain the exemption file among the records of the ISCAP.

Article VIII. Third Function: Appeals of Agency Decisions Denying Declassification Under Mandatory Review Provisions of the Order

In accordance with section 5.4(b) of the Order, the ISCAP shall decide on appeals by parties whose requests for declassification under section 3.6 of the Order have been denied.

A. Jurisdiction. The ISCAP will consider appeals from denials of mandatory review for declassification requests that otherwise meet the standards of the Order if:

1. The appeal is filed in accordance with these bylaws;

2. The appellant has previously filed a request for mandatory declassification review at the agency that originated or is otherwise responsible for the information in question in accordance with the agency's procedures or, if the agency has failed to establish

procedures for mandatory review, by filing a written request directly with the agency head or designated senior agency official;

3. The appellant has

(a) Received a final agency decision denying his or her request; or

(b) Not received (i) an initial decision on the request for mandatory declassification review from the agency within one year of its filing, or (ii) a final decision on an internal agency appeal within 180 days of the filing of the appeal;

4. There is no action pending in the federal courts regarding the information in question; and

5. The information in question has not been the subject of review by the federal courts or the ISCAP within the past two years.

B. Addressing of Appeals. Appeals should be addressed to: Executive Secretary, Interagency Security Classification Appeals Panel, Attn: Mandatory Review Appeals, c/o Information Security Oversight Office, National Archives and Records Administration, 7th and Pennsylvania Avenue, NW., Room 5W, Washington, DC 20408.

The appeal must contain enough information for the Executive Secretary to be able to obtain all pertinent documents about the request for mandatory declassification review from the affected agency.

C. Timeliness of Appeals. An appeal to the ISCAP must be filed within 60 days of:

1. The date of the final agency decision; or

2. The agency's failure to meet the time frames established in paragraph (A)(3)(b) of this Article.

D. Rejection of Appeal. If the Executive Secretary determines that the appeal does not meet the requirements of the Order or these bylaws, the Executive Secretary shall notify the appellant in writing that the appeal will not be considered by the ISCAP. The notification shall include an explanation of why the appeal is deficient.

E. Preparation. The Executive Secretary shall notify the Chair and the designated senior agency official(s) of the affected agency(ies) when an appeal is lodged. Under the direction of the ISCAP, the Executive Secretary shall supervise the preparation of an appeal file, pertinent portions of which will be presented to the members of the ISCAP for their review prior to a vote on the appeal. The appeal file will eventually include all records pertaining to the appeal.

F. Narrowing Appeals. To expedite the resolution of appeals and minimize backlogs, the Executive Secretary is authorized to consult with appellants with the objective of narrowing or prioritizing the information subject to the appeal.

G. Resolution of Appeals. The ISCAP may vote to affirm the agency's decision, to reverse the agency's decision in whole or in part, or to remand the matter to the agency for further consideration. A decision to reverse an agency's decision requires the affirmative vote of at least a majority of the members present.

H. Notification. The Executive Secretary shall promptly notify in writing the appellant, the agency head, and designated senior agency official of the ISCAP's decision.

I. Agency Appeals. Within 60 days of receipt of an ISCAP decision that reverses a final agency decision, the agency head may petition the President through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

J. Protection of Classified Information. All persons involved in the appeal shall make every effort to minimize the inclusion of classified information in the appeal file. Any classified information contained in the appeal file shall be handled and protected in accordance with the Order and its implementing directives. Information that is subject to an appeal from an agency decision denying declassification under the mandatory review provisions of the Order shall remain classified unless and until a final decision is made to declassify it. In no instance will the ISCAP declassify properly classified information solely because of an agency's failure to prescribe or follow appropriate procedures for handling mandatory review for declassification requests and appeals.

K. Maintenance of File. The Executive Secretary shall maintain the appeal file among the records of the ISCAP. All information declassified as a result of ISCAP action shall be available for inclusion within the database established by the Archivist of the United States in accordance with section 3.8 of the Order.

Article IX. Additional Functions

In its consideration of the matters before it, the ISCAP shall perform such additional advisory functions as are consistent with and supportive of the successful implementation of the Order.

Article X. Support Staff

As provided in section 5.4(a) of the Order, the Director of the Information Security Oversight Office will serve as Executive Secretary to the ISCAP, and the staff of the Information Security Oversight Office will provide program and administrative support for the ISCAP. The Executive Secretary will supervise the staff in this function pursuant to the direction of the Chair and ISCAP. On an as needed basis, the ISCAP may seek detailees from its member agencies to augment the staff of the Information Security Oversight Office in support of the ISCAP.

Article XI. Records

A. Integrity of ISCAP Records. The Executive Secretary shall maintain separately documentary materials, regardless of their physical form or characteristics, that are produced by or presented to the ISCAP or its staff in the performance of the ISCAP's functions, consistent with applicable federal law.

B. Referrals. Any Freedom of Information Act request or other access request for a document that originated within an agency other than the ISCAP shall be referred to that agency for processing.

Article XII. Annual Reports to the President

The ISCAP has been established for the sole purpose of advising and assisting the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States (section 5.4(e) of the Order). As provided in section 5.4(a) of the Order, pertinent information and data about the activities of the ISCAP shall be included in the Reports to the President issued by the Information Security Oversight Office. The Chair, in coordination with the other members of the ISCAP and the Executive Secretary, shall determine what information and data to include in each Report.

Article XIII. Approval, Amendment, and Publication of Bylaws

The approval and amendment of these bylaws shall require the affirmative vote of at least four of the ISCAP's members. In accordance with the Order, the Executive Secretary shall submit the approved bylaws and their amendments for publication in the Federal Register.

Steven Garfinkel,

Director, Information Security Oversight Office and Executive Secretary, Interagency Security Classification Appeals Panel.

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Friday
March 15, 1996

Part IV

Department of Housing and Urban Development

24 CFR Parts 3282 and 3283

Federal Manufactured Housing Program; Streamlining; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3282 and 3283

[Docket No. FR–4025–F–01]

RIN 2502–AG70

Office of the Assistant Secretary for Housing-Federal Housing Commissioner; Federal Manufactured Housing Program; Streamlining Final Rule

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations for the program operated under the National Manufactured Housing Construction and Safety Standards Act of 1974. In an effort to comply with the President's regulatory reform initiatives, this rule will streamline the regulations in parts 3282 and 3283, concerning manufactured housing, by eliminating provisions that are repetitive of statutes, provide only guidance, or are otherwise unnecessary. This final rule will make the program regulations clearer and more concise.

EFFECTIVE DATE: April 15, 1996.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, L'Enfant Plaza North, Suite 3214, Washington, D.C. (mailing address: Room B–133, HUD Building, Washington, D.C. 20410–8000); telephone number: (202) 755–7420 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

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 concerning manufactured housing can be improved and streamlined by eliminating unnecessary provisions.

Several provisions in the regulations repeat statutory language from the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* 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 final rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

Other provisions in the regulations apply to more than one of the Department's programs, and therefore these provisions had been repeated in various program regulations. The Department has been consolidating some of these repetitious provisions as part of its regulatory reinvention efforts. Therefore, this final rule maintains only appropriate cross-references to consolidated provisions, for the reader's convenience.

Some provisions in the Manufactured Home Procedural and Enforcement regulations (part 3282) are now obsolete. For instance, this rule removes obsolete regulations regarding Transition Certifications in subpart E. The Transition Certification applied to homes in production when the Manufactured Home Construction and Safety Standards first went into effect on June 15, 1976. Other subparts of the regulations contain similar provisions relating to the start-up of the Federal program for manufactured housing and are now also obsolete and unnecessary. Therefore, HUD can remove the obsolete regulations in subpart E, as well as other subparts.

Lastly, some provisions in the regulations are not regulatory requirements. For example, 24 CFR part 3283 contains guidance or explanations relating to the manufactured home consumer manual requirements. Section 617 of the Act, 42 U.S.C. 5416, requires that the Secretary develop guidelines for a consumer's manual to be provided to manufactured home purchasers by the manufacturer. The Act further provides that these manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their manufactured homes. Except for the requirement that the manufacturer provide a manual with each manufactured home produced, the guidance provided in 24 CFR part 3283 is nonmandatory. While this information is very helpful to recipients, HUD will more appropriately provide this information through handbook guidance or other materials, rather than maintain it in the CFR. Accordingly, the mandatory sections of part 3283 will be moved to part 3282 and § 3282.207. The guidance provided by part 3283 will be issued simultaneously with this rule as an uncodified appendix and will also be published and made available in a future handbook.

Justification for Final 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.

Section-by-Section Analysis of Changes

The Secretary has determined that the following changes should be made to the Manufactured Home Procedural and Enforcement Regulations:

(1) Section 3282.1—This section has already been revised to add a reference to 24 CFR part 3800, which outlines procedures for investigations and investigational proceedings (see FR–4026, a reinvention rule published shortly before this rule).

(2) Section 3282.2—This section has been removed. Delegations of authority are effective when signed by the Secretary of HUD, and HUD publishes all delegations of authority in the Federal Register. Accordingly, the delegation of authority does not need to be contained in the rule.

(3) Sections 3282.3–3282.5—These sections have been removed because they relate to the composition of the program office and are unnecessary.

(4) Section 3282.7(11)—This section defined the term ''Title I,'' which is later used in reference to procedures necessary to implement the requirements of the regulations when they first became effective in 1976, and are no longer in effect.

(5) Section 3282.9(a)—This section has been removed and a reference has been made to identical provisions in 24 CFR 26 relating to computation of time.

(6) Section 3282.53—This section, relating to section 612(e) of the Act and the registering agents by foreign manufacturers, has been revised because it is repetitious of the statutory

provisions. The form of the designation of agent, however, has been retained.

(7) Section 3282.54(d)—This section regarding availability of cost information submitted in opposition to an action by the Secretary under section 607(a) of the Act has been removed as repetitious of the statutory provisions.

(8) Subpart C, §§ 3282.101–3282.110, and 3282.112—This subpart is repetitious of the Department's rulemaking provisions in 24 CFR part 10 and the Act. Accordingly, language has been removed in several of these sections. Where the requirements provided in these sections differ from 24 CFR part 10, the exception is noted. In addition, § 3282.113(b), relating to resolutions of disputes with DAPIAs, had been mistakenly placed in § 3282.113, Interpretative Bulletins; the provisions are repeated in § 3282.151(b)(2) and, therefore, are removed as duplicative.

(9) Section 3282.151(a)—The provisions of this section specifying the situation in which a presentation of views is appropriate under the Act have been removed because they merely repeat the statute.

(10) Sections 3282.151(c) and 3282.155—The language referring to investigations and investigational hearings has been removed because regulations pertaining to these procedures have been moved to a new part 3800 (see FR–4026, a reinvention rule published shortly before this rule). The new part 3800 covers such procedures relating to the Department's investigations under the Act, the Real Estate Settlement Procedures Act and the Interstate Land Sales Full Disclosure Act. Because the Department's procedures in investigations under these statutes are similar, it is unnecessary to repeat those procedures for each program.

(11) Section 3282.207— This section has been removed because it relates to Transition Certification of manufactured homes already in production on the effective date of the Standards in 1976 and is thus no longer necessary. In place of the transition certification language, the Department will move the mandatory sections of part 3283 (Consumer Manual) to this section.

In addition, references to transition certification and other procedures that were once necessary to implement the requirements of the regulations when they first became effective in 1976 have been removed, including all or portions of the following sections: 3282.7(11), 3282.11(b), 3282.205(a), 3282.205(c), 3282.205(d), 3282.207, 3282.302(e), 3282.352(c), 3282.353(a)(8), 3282.353(f), 3282.355(b), 3282.361(d), 3282.362(b)(5), 3282.362(c)(2)(i)(B), 3282.362(c)(2)(i)(C), and 3282.362(c)(2)(ii). These references are obsolete and may be removed without affecting the present regulation of manufactured housing.

IV. 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 final 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 and does not alter the environmental effect of the regulations being amended. A Finding of No Significant Impact with respect to the environment was 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 National Manufactured Housing Construction and Safety Standards Act of 1974. That finding remains applicable to this rule, and is 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 will result from this rule that would affect the relationship between the Federal government and State and local governments.

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.

List of Subjects

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Reporting and recordkeeping requirements, Warranties.

24 CFR Part 3283

Consumer protection, Manufactured homes, Warranties.

For the reasons stated in the preamble, under the authority of 42 U.S.C. 3535(d), in title 24 of the Code of Federal Regulations, part 3282 is amended and part 3283 is removed, as follows:

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

1. The authority citation for part 3282 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5424.

Subpart A—General

§§ 3282.2, 3282.3, 3282.4, and 3282.5 [Removed]

2. Sections 3282.2, 3282.3, 3282.4, and 3282.5 are removed.

§ 3282.7(11) [Removed and Reserved]

3. Section 3282.7(ll) is removed and reserved.

4. Section 3282.9 is amended by revising paragraph (a) to read as follows:

§ 3282.9 Computation of time.

(a) In computing any period of time prescribed by the regulations in this part, refer to § 26.16(a) of this title.

* * * * *

5. Section 3282.11 is amended by revising paragraph (b) to read as follows:

§ 3282.11 Preemption and reciprocity.

* * * * *

(b) No State may require, as a condition of entry into or sale in the State, a manufactured home certified (by the application of the label required by § 3282.362(c)(2)(i)) as in conformance with the Federal standards to be subject to State inspection to determine compliance with any standard covering any aspect of the manufactured home covered by the Federal standards. Nor

may any State require that a State label be placed on the manufactured home certifying conformance to the Federal standard or an identical standard. Certain actions that States are permitted to take are set out in § 3282.303.

* * * * *

Subpart B—Formal Procedures

6. Section 3282.53 is revised to read as follows:

§ 3282.53 Service of process on foreign manufacturers and importers.

The designation of an agent required by section 612(e) of the Act, 42 U.S.C. § 5411(e), shall be in writing, dated, and signed by the manufacturer and the designated agent.

§ 3282.54 [Amended]

7. Section 3282.54 is amended by removing paragraph (d) and redesignating paragraph (e) as paragraph (d).

Subpart C—Rules and Rulemaking Procedures

8. Section 3282.101 is revised to read as follows:

§ 3282.101 Generally.

Procedures that apply to the formulation, issuance, amendment, and revocation of rules pursuant to the Act are governed by the Act, the Administrative Procedure Act, 5 U.S.C. 551 et seq., and part 10 of this title, except that the Secretary shall respond to a petition for rulemaking by an interested party within 180 days of receipt of the petition.

§§ 3282.102 through 3282.110 and § 3282.112 [Removed]

9. Sections 3282.102 through 3282.110 and 3282.112 are removed.

10. Section 3282.113 is revised to read as follows:

§ 3282.113 Interpretative bulletins.

When appropriate, the Secretary shall issue interpretative bulletins interpreting the standards under the authority of § 3280.9 of this chapter or interpreting the provisions of this part. Issuance of interpretative bulletins shall be treated as rulemaking under this subpart C unless the Secretary deems such treatment not to be in the public interest and the interpretation is not otherwise required to be treated as rulemaking. All interpretative bulletins shall be indexed and made available to the public at the Manufactured Housing Standards Division and a copy of the index shall be published periodically in the Federal Register.

Subpart E—Manufacturer Inspection and Certification Requirements

11. Section 3282.205 is amended by revising paragraphs (a), (c), and (d), to read as follows:

§ 3282.205 Certification requirements.

(a) Every manufacturer shall make a record of the serial number of each manufactured home produced, and a duly authorized representative of the manufacturer shall certify that each manufactured home has been constructed in accordance with the Federal standards. The manufacturer shall furnish a copy of that certification to the IPIA for the purpose of determining which manufactured homes are subject to the notification and correction requirements of subpart I of this part.

* * * * *

(c) Every manufacturer of manufactured homes shall furnish to the dealer or distributor of each of its manufactured homes a certification that such manufactured home, to the best of the manufacturer's knowledge and belief, conforms to all applicable Federal construction and safety standards. This certification shall be in the form of the label provided by the IPIA under § 3282.362(c)(2). The label shall be affixed only at the end of the last stage of production of the manufactured home.

(d) The manufacturer shall apply a label required or allowed by the regulations in this part only to a manufactured home that the manufacturer knows by its inspections to be in compliance with the standards.

12. Section 3282.206 is amended in paragraph (b) by capitalizing the word ''Extraordinary'', and by revising paragraph (c) to read as follows:

§ 3282.206 Disagreement with IPIA or DAPIA.

* * * * *

(c) The DAPIA or IPIA otherwise resolves the disagreement.

13. Section 3282.207 is revised to read as follows:

§ 3282.207 Manufactured home consumer manual requirements.

(a) The manufacturer shall provide a consumer manual with each manufactured home that enters the first stage of production on or after July 31, 1977, pursuant to section 617 of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5416.

(b) The manufacturer shall provide the consumer manual by placing a manual in each such manufactured home before the manufactured home leaves the manufacturing plant. The manual shall be placed in a conspicuous location in a manner likely to assure that it is not removed until the purchaser removes it.

(c) If a manufacturer is informed that a purchaser did not receive a consumer manual, the manufacturer shall provide the appropriate manual to the purchaser within 30 days of being so informed.

(d) No dealer or distributor may interfere with the distribution of the consumer manual. When necessary, the dealer or distributor shall take any appropriate steps to assure that the purchaser receives a consumer manual from the manufacturer.

(e) If a consumer manual or a change or revision to a manual does not substantially comply with the guidelines issued by HUD, the manufacturer shall cease distribution of the consumer manual and shall provide a corrected manual for each manufactured home for which the inadequate or incorrect manual or revision was provided. A manual substantially complies with the guidelines if it presents current material on each of the subjects covered in the guidelines in sufficient detail to inform consumers about the operation, maintenance, and repair of the manufactured home. An updated copy of guidelines published in the Federal Register on March 15, 1996 can be obtained by contacting the Office of Manufactured Housing and Regulatory Functions, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., 20410; the Information Center, Department of Housing and Urban Development, Room 1202, 451 Seventh Street, S.W., Washington, D.C., 20410; or any HUD Area or State Office.

Subpart G—State Administrative Agencies

14. Section 3282.302(e) is revised to read as follows:

§ 3282.302 State plan.

* * * * *

(e) *Exclusive IPIA status.* (1) A State that wishes to act as an exclusive IPIA under § 3282.352 shall so indicate in its State Plan and shall include in the information provided under paragraph (b)(11) of this section the fee schedule for the State's activities as an IPIA and the relationship between the proposed fees and the other information provided under paragraph (b)(11) of this section. If the Secretary determines that the fees to be charged by a State acting as an

IPIA are unreasonable, the Secretary shall not grant the State status as an exclusive IPIA.

(2) The State shall also demonstrate in its State Plan that it has the present capability to act as an IPIA for all plants operating in the State.

Subpart H—Primary Inspection Agencies

15. Section 3282.352(c) is revised to read as follows:

§ 3282.352 State exclusive IPIA functions.

* * * * *

(c) A State's status as an exclusive IPIA shall commence upon approval of the State Plan Application and acceptance of the State's submission under § 3282.355. Where a private organization accepted or provisionally accepted as an IPIA under this subpart H is operating in a manufacturing plant within the State on the date the State's status as an exclusive IPIA commences, the private organization may provide IPIA services in that plant for 90 days after that date.

§ 3282.353 [Amended]

16. Section 3282.353 is amended by:

a. Adding the word ''and'' at the end of paragraph (a)(6);

b. Removing the phrase ''; and'' at the end of paragraph (a)(7), and adding in their place a period; and

c. Removing paragraphs (a)(8) and (f).

§ 3282.355 [Amended]

17. Section 3282.355 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

§ 3282.361 [Amended]

18. Section 3282.361 is amended by removing paragraph (d) and redesignating paragraph (e) as paragraph (d).

19. Section 3282.362 is amended by:

a. Removing paragraph (b)(5); and

b. Revising paragraphs (c)(2)(i)(B) and (C) and the introductory text of paragraph (c)(2)(ii), to read as follows:

§ 3282.362 Production Inspection Primary Inspection Agencies (IPIAs).

* * * * *

(c) * * *

(2) * * *

(i) * * *

(B) A permanent label shall be affixed to each transportable section of each manufactured home for sale or lease to a purchaser or lessor in the United States in such a manner that removal will damage the label so that it cannot be reused. This label is provided by the IPIA and is separate and distinct from the data plate that the manufacturer is required to provide under § 3280.5.

(C) The label shall read as follows:

As evidenced by this label No. ABC 000 001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this manufactured home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture. See data plate.

* * * * *

(ii) *Label control.* The labels used in each plant shall be under the direct control of the IPIA acting in that plant. Only the IPIA shall provide the labels to the manufacturer. The IPIA shall assure that the manufacturer does not use any other label to indicate conformance to the standards.

* * * * *

PART 3283—[REMOVED]

20. Part 3283 is removed.

Dated: March 4, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[Note. The following guide will not be codified in the Code of Federal Regulations.]

U.S. Department of Housing and Urban Development Manufactured Home Consumer Manual Guide

A. General

1. Scope

These guidelines set out the requirements that shall be met by manufactured home manufacturers and dealers in order to assure that consumer manuals containing appropriate information are provided to manufactured home purchasers as required by section 617 of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5416. This section sets out the definitions applicable to the guidelines.

2. Definitions

(a) *Anchor* means to secure to the ground by straps, cables, turn buckles, chains, ties, or other devices designed to prevent the manufactured home from being unstable in high winds or other conditions that might cause an unsecured home to overturn or otherwise suffer damage because it is not adequately secured to the ground.

(b) *Component* means any part, material or appliance which is built in as an integral part of the manufactured home during the manufacturing process.

(c) *Condensation* means the process of reducing a gas or vapor to a liquid form which is evidenced in a manufactured home by the accumulation of moisture on windows and other surfaces.

(d) *Consumer manual* means a document or series of documents included in a package that substantially complies with the guideline set out in section C of these guidelines.

(e) *Dealer* means any person engaged in the sale, leasing or distribution of new manufactured homes primarily to persons who, in good faith, purchase or lease a manufactured home for purposes other than resale.

(f) *Diagram* means a drawing or plan that outlines and explains the parts and operation of a major system in the manufactured home, such as the plumbing, electrical, heating, cooling and ventilating systems.

(g) *Distributor* means any person engaged in the sale and distribution of manufactured homes for resale.

(h) *Federal Manufactured Home Construction and Safety Standard* means a reasonable standard for the construction, design and performance of a manufactured home which meets the needs of the public, including the need for quality, durability and safety.

(i) *Major systems* means those functional units that are supplied with the manufactured home during the manufacturing process and includes the structural, electrical, plumbing and heating and cooling systems of the manufactured home.

(j) *Manufacturer* means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale, except that it does not include a person engaged in manufacturing modular homes that are exempt from the Federal Manufactured Home Construction and Safety Standards under 24 CFR 3280.7.

(k) *Manufactured home* means as the term is defined in 24 CFR 3280.2.

(l) *Purchaser* means the first person purchasing a manufactured home in good faith for purposes other than resale.

(m) *Written warranty* means: (1) Any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time; or (2) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the

specifications set forth in the undertaking, which written affirmation, promise or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

3. Manual Requirement; Effective Date

A consumer manual must be provided with each manufactured home that enters into the first stage of production on or after July 31, 1977, pursuant to 24 CFR 3282.207 of the Manufactured Home Procedural and Enforcement Regulations. The manual shall be provided as set out in section B of these guidelines.

B. Distribution and Adequacy of the Manual

1. Scope

This section sets out the manner in which consumer manuals are to be provided to consumers and procedures for assuring that consumer manuals are correctly distributed. It also sets out requirements to be met by manufacturers if manuals are found to be inadequate.

2. Manual Distribution

(a) Each manufacturer shall provide a consumer manual with each manufactured home that enters the first stage of production on or after July 31, 1977, by placing a manual in each such manufactured home before the manufactured home leaves the manufacturing plant. The manual shall be placed in a conspicuous location in a manner likely to assure that it is not removed until the purchaser removes it.

(b) If a manufacturer is informed that a purchaser did not receive a consumer manual, the manufacturer shall provide the appropriate manual to the purchaser within 30 days of being so informed.

(c) No dealer or distributor may interfere with the distribution of the consumer manuals. Where necessary, the dealer or distributor shall take any appropriate steps to assure that the purchaser receives a consumer manual from the manufacturer.

3. Inadequate Consumer Manuals

If a consumer manual or a change or revision to a manual does not substantially comply with section C, the manufacturer shall cease distribution of the consumer manual and shall provide a corrected manual for each manufactured home, for which the inadequate or incorrect manual or revision was provided. A manual substantially complies with section C if it presents current material on each of the subjects covered in section C in sufficient detail to inform consumers about the operation, maintenance, and repair of the manufactured home.

C. Guidelines

1. Scope and Purpose

(a) The purpose of this section is to provide guidelines to manufacturers which will assure that manufactured home consumers are given information concerning proper home maintenance, avoidance of potential safety hazards, and remedies which may be available under the Act.

(b) No precise format is required. The information may be offered in a single document or in several documents, all of which are part of a single package. The information shall be presented in a clear and understandable manner and an index should be prepared so that consumers can readily locate any information provided as part of the package.

2. Statements About the Act and Its Protections

(a) The manual should include an explanation of the National Manufactured Housing Construction and Safety Standards Act and of the Federal manufactured home construction and safety standards. The explanation should discuss the protections offered by the standards, the limitations of the standards and the remedies available to the consumer under the Act. The explanation should use the following language or its equivalent:

The National Manufactured Housing Construction and Safety Standards Act of 1974 was enacted to improve the quality and durability of manufactured homes and to reduce the number of injuries and deaths caused by manufactured home accidents. The Federal manufactured home construction and safety standards issued under the Act govern how manufactured homes must be constructed. Your manufactured home was manufactured to the standards. The standards cover the planning and construction of your home. They were developed so that you would have a safe, durable home. The standards do not cover such aspects of the manufactured home as furniture, carpeting, certain appliances, cosmetic features of the home and additional rooms or sections of the home that you have added. The Act provides that if for some reason your manufactured home is found not to meet the standard or to contain safety hazards, the manufacturer of the manufactured home must notify you of that fact. In some cases where there is a safety hazard involved, the Act requires the manufacturer to correct the manufactured home at no cost to you or to replace the home or refund all or a percentage of the purchase price. If you believe you have a problem for which the Act provides a remedy, you should contact the manufacturer, the manufactured home agency in your state (see the list on page of this manual), or the Department of Housing and Urban Development. Our address is (state the manufacturer's address). We recommend that you contact us first, because that is the quickest way to have your complaint considered.

(b) The manual should state the location of the data plate and should explain the significance of all the information printed on it, particularly the significance of the zone information and the wind and roof load maps.

(c) The manual should include a list of the State Administrative Agencies (SAAs) that have been approved or conditionally approved under 24 CFR 3282.305 of the Manufactured Home Procedural and Enforcement Regulations. The list should include all SAAs listed in this section as of the date the manual or revision is prepared for printing. Manufacturers may contact HUD for any update to the SAA list that appears in this section by sending a stamped, self-addressed envelope to: List Control, Office of Manufactured Housing and Regulatory Functions, Room 4224, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000.

The following States have been approved or conditionally approved to act as SAAs:

State, Agency Name, Address and Telephone Number

Alabama—Alabama Manufactured Housing Commission, 908 South Hull Street, Montgomery, AL 36130–3401, (205) 261–4036

Arizona—Office of Manufactured Housing, 801 E. Jefferson, Suite 202, Phoenix, AZ 85034, (602) 255–4072

Arkansas—Manufactured Home Commission, 1022 High Street, Suite #505, Little Rock, AR 72202, (501) 371–1641

California—Manufactured Housing Section, Division of Codes & Standards, Department of Housing and Community Development, P.O. Box 31, Sacramento, CA 95801, (916) 323–9803

Colorado—Division of Housing, Department of Local Affairs, 1313 Sherman Street, Room 419, Denver, CO 80203, (303) 866–2033

Florida—Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles, Neil Kirkman Building,

Room A 129, 2900 Apalachee Parkway, Tallahassee, FL 32301–8209, (904) 488–7657

Georgia—State Fire Marshal's Office, Manufactured Homes Division, 620 West Tower, No. 2 Martin Luther King, Jr. Drive, Atlanta, GA 30334, (404) 656–2064

Idaho—Department of Labor and Industrial Service, 277 North Sixth Street, Boise, ID 83720, (208) 334–3896

Indiana—Department of Fire Prevention and Building Safety, Industrialized Building Systems/Code Enforcement Div., 1099 N. Meridian Street, Suite 900, Indianapolis, IN 46204, (317) 232–1405

Iowa—Building Code Bureau, Division of the State Fire Marshall, Department of Public Safety, Wallace State Office Building, Des Moines, IA 50319, (515) 281–3807

Kentucky—Department of Housing, Building and Construction, U.S. 127 South Building, Frankfort, KY 40601, (502) 564–3626

Louisiana—Mobile Home Division, 1033 North Lobdell Avenue, Baton Rouge, LA 70806, (504) 925–4911

Maine—Manufactured Housing Board, Department of Professional and Financial Regulation, State House Station 32, Augusta, ME 04333, (207) 289–2955

Maryland—Building Codes Administration—DECD, Department of Economic and Community Development, 45 Calvert Street, Annapolis, MD 21401, (301) 974–2701

Michigan—Department of Commerce, Mobile Home Division, Corporation & Securities Bureau, 6546 Mercantile Way, P.O. Box 30222, Lansing, MI 48909, (517) 334–6203

Minnesota—Department of Administration, Building Codes and Standards Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, MN 55101, (612) 296–4628

Mississippi—Office of the Fire Marshall, 416 Woolfolk Building, P.O. Box 22542, Jackson, MS 39205–2542, (601) 359–1061

Missouri—Public Service Commission, Mobile Homes and Recreational Vehicles Division, P.O. Box 360, Jefferson City, MO 65102, (314) 751–7119

Nebraska—Department of Health, Division of Housing and Environmental Health, 301 Centennial Mall South, P.O. Box 95007, Lincoln, NE 68509, (402) 471–2541

Nevada—Manufactured Housing Division, Nevada Department of Commerce, Capitol Complex, Carson City, NV 89710, (702) 885–4298

New Jersey—Department of Community Affairs, Division of Housing and Development—BCCE, CN 805 Manufactured Housing Construction, Trenton, NJ 08625–0804, (609) 292–7142

New Mexico—Regulation and Licensing Department, Manufactured Housing Division, Santa Fe, NM 87503, (505) 827–6340

New York—Housing and Building Codes Bureau, Division of Housing and Community Renewal, One Fordham Plaza, Bronx, NY, 10458, (212) 519–5273 (Kessner); (212) 488–4910 (Jordan)

North Carolina—Department of Commerce, Council, Boards & Government Relations Division, P.O. Box 26307, Raleigh, NC 27611, (919) 733–3901

Oregon—Department of Commerce, Building Codes Division, MHRV Section, 401 Labor and Industries Building, Salem, OR 97310, (503) 378–8451

Pennsylvania—Division of Manufactured Housing, Department of Community Affairs, Room 509, Forum Building, Harrisburg, PA 17120, (717) 787–9682

Rhode Island—Department of Community Affairs, Building Commission, 1270 Mineral Spring Avenue, North Providence, RI 02904, (401) 277–3033

South Carolina—Manufactured Housing Section, Budget and Control Board, Division of General Services, 300 Gervais Street, Columbia, SC 29201, (803) 758–5378

South Dakota—Department of Commerce and Regulation, Commercial Inspection, 118 W. Capitol, Pierre, SD 57501, (605) 773–3697

Tennessee—Department of Commerce and Insurance, Division of Fire Prevention, 1808 West End Building, Suite 500, Nashville, TN 37219–5319, (615) 741–7170

Texas—Texas Department of Labor and Standards, P.O. Box 12157, Austin, TX 78711, (512) 463–5520

Utah—Department of Business Regulation, Contractors Division—MH & RV, P.O. Box 45802, Salt Lake City, UT 84145, (801) 530–6727

Virginia—Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. 4th Street, Room M–4, Richmond, VA 23219, (804) 786–4846

Washington—Department of Labor and Industries, Construction Compliance Inspection, 520 S. Water Street, Olympia, WA 98504, (206) 586–0215

Wisconsin—Department of Industry, Labor and Human Relations, Safety and Building Division, P.O. Box 7969, Madison, WI 53707, (608) 266–1748 or (608) 267–7935 (Turner)

(d) The manual should state that the Department of Housing and Urban Development (HUD) is the Federal agency administering the Act and that any questions concerning the Act or a consumer's rights under the Act should be directed to HUD. The manual should advise consumers that in order to contact HUD, they should refer to the Department of Housing and Urban Development under listings for the U.S. Government in their telephone book. In calling or writing the local HUD office, consumers should be directed to address their inquiry or call to the ''Consumer Complaint Officer'' in their local HUD or FHA Office. Consumers should be advised that they may contact the Central HUD Office directly by writing or calling the Office of Manufactured Housing and Regulatory Functions, Compliance Branch, telephone (202) 755–6920 or (202) 755–6584. (These are not toll-free numbers.)

3. Written Warranties

(a) The manual should state whether or not the manufacturer provides a written warranty covering the manufactured home. If the manufacturer provides written warranty, the manual should explain in clear and understandable language what protections the warranty provides and how the consumer can obtain service under the warranty. The manual should specifically and clearly describe:

(1) What repairs the manufacturer will pay for under the warranty and what repairs, if any, the manufacturer will not pay for;

(2) How long the warranty protection lasts;

(3) What the consumer must do to maintain warranty protections, including any services that the consumer must obtain or provide at the consumer's expense;

(4) What actions or conditions could void the warranty; and

(5) Exactly what steps the consumer should take to obtain warranty service, including any informal dispute settlement procedures offered by the manufacturer prior to pursuit of legal remedies.

(b) The manual should state what appliances, components or other aspects of the manufactured home are not covered by the manufacturer's written warranty and identify any warranty certificates which have been provided for any of these items.

(c) Compliance with paragraph (a) of this section may be obtained by including, as a document of the consumer manual, the manufacturer's written warranty statement that meets the requirements issued by the Federal Trade Commission under the Magnuson-Moss Warranty Federal Trade Commission Improvement Act, 15 U.S.C. 2301 et seq. (Magnuson-Moss). However, this section is not to be construed as governing the making or content of written warranties on manufactured homes. Any such written warranties must comply with the Magnuson-Moss requirements.

4. Setting Up and Anchoring the Manufactured Home

(a) The manual should include an explanation of procedures recommended to be followed in setting up the manufactured home. The explanation should include: (1) Site preparation procedures; (2) the types of foundations for which the home was designed; (3) procedures for leveling the home; (4) procedures for connecting the utilities; and (5) suggested anchoring procedures for wind-upset and sliding. If practicable, the manual should include a list of sources the consumer may contact to obtain set-up and anchoring services. The manual should advise the consumer of the differing requirements for manufactured homes located in ''hurricane'' and ''non hurricane'' wind zones.

(b) The manual should include a recommendation that the home be professionally inspected after it is set up to assure that it has not been damaged in transit and is properly set up.

5. Safety

(a) Fire safety. The manual should state the location of the following safety features required by the standards and explain how they are operated: (1) Smoke detectors; (2) exit doors and bedroom egress windows; and (3) any other emergency escape systems.

(b) Wind safety. The manual should state that in order for the manufactured home to be secure against high winds, it should be anchored to the ground. The manual should caution the owner that if the manufactured home is not properly anchored, it is highly susceptible to wind damage when high wind conditions occur.

(c) Systems safety. The manual should explain how the electric, plumbing, and heating systems of the manufactured home may be rendered unsafe through improper use or treatment and what hazards may result. The manual should state the location and purpose of utility shut-off valves and switches and how they should be used to prevent hazards.

6. Maintenance

(a) The manual should contain a detailed explanation of how the consumer should care for the manufactured home, including a simple maintenance and inspection chart that can be used as a checklist by the consumer. The explanation should describe any aspects of operation and maintenance that are unique to manufactured homes, and it should emphasize that the consumer is responsible for adequate maintenance. The explanation should include a list of components, appliances or major systems for which an operational manual or instructions were provided by the manufacturer of the item and a statement that the consumer should make sure that those manuals or instructions were provided with the manufactured home.

(b) The manual should discuss the possible consequences of inadequate maintenance or faulty operation. In particular, the manual should discuss problems which may arise from condensation or from inadequate insulation of the piping in the manufactured home and how those problems can be avoided.

(c) The manual should state the maintenance and repair procedures or types of procedures for which specialized knowledge or skills are required.

(d) The manual should state how the purchaser can obtain diagrams of the structural, electrical, plumbing and heating, cooling and transportation systems.

7. Relocating the Manufactured Home

The manual should identify and explain the factors that the consumer should take into account whenever the manufactured home may be relocated. These should include weight and balance considerations; securing of appliances, furniture, etc.; and recommended conditions of the manufactured home's transportation system (e.g., tires, brakes, axles, wheels, rims, coupling mechanisms). It should recommend that the owner seek professional assistance whenever considering relocating the home.

8. Insurance

The manufacturer should recommend that owners of manufactured homes consider acquiring adequate and appropriate insurance. Manufacturers should also advise consumers to contact an insurance company of their choice to obtain information on the types of insurance coverage available and should suggest factors to be considered.

[FR Doc. 96–6163 Filed 3–14–96; 8:45 am]

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federal register

Friday
March 15, 1996

Part V

Department of Housing and Urban Development

Continuum of Care Homeless Assistance; Funding Availability; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–4042–N–01]

Notice of Funding Availability for Continuum of Care Homeless Assistance; Supportive Housing Program (SHP); Shelter Plus Care (S+C); Sec. 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals (SRO)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This Notice announces the 1996 homeless assistance competition designed to help communities develop Continuum of Care systems to assist homeless persons. These funds are available under three programs to create community systems for combating homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals. This notice of funding availability (NOFA) contains information concerning the Continuum of Care approach, eligible applicants, eligible activities, application requirements, and application processing.

DEADLINE DATES: All applications are due in HUD Headquarters before midnight Eastern Time on June 12, 1996. HUD will treat as ineligible for consideration applications that are received after that deadline. Applications may not be sent by facsimile (FAX).

ADDRESSES: For a copy of the application package and supplemental information please call the Community Connections information center at 1–800–998–9999 (voice) or 1–800–483–2209 (TDD), or contact by internet at gopher://amcom.aspensys.com:75/11/funding. Also, you can purchase, for a nominal fee, a video that walks you through the application package and provides general background that can be useful in preparing your application. The fee for the video may be waived in cases of financial hardship. For copies of the relevant portions of your community's Consolidated Plan, please contact the local or State official responsible for that Plan. If you need assistance in identifying this person, please call your local HUD Field Office.

Before close of business on the deadline date completed applications will be accepted at the following address: Special Needs Assistance Programs, Room 7270, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, Attention: Continuum of Care Funding. On the deadline date, hand-carried applications will be received at the South lobby of the Department of Housing and Urban Development at the above address. Two copies of the application must also be sent to the HUD Field Office serving the State in which the applicant's projects are located. A list of Field Offices appears in an appendix of this NOFA. Field Office copies must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at HUD Headquarters in Washington.

ELECTRONIC SUBMISSION: In addition to submitting the application narratives and forms in the traditional manner, you may also include an electronic version of your materials on a 3¼″ computer diskette. The inclusion of the computer version this year is strictly an optional supplement to the standard application.

If you use HUD's Consolidated Planning software to generate supplemental maps, charts, or project lists, please include these files on the diskette as well.

FOR FURTHER INFORMATION CONTACT: The Community Connections information center at 1–800–998–9999 (voice) or 1–800–483–2209 (TDD), or by internet at gopher://amcom.aspensys.com:75/11/funding.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, and assigned OMB approval numbers 2506–0131, 2506–0112, and 2506–0118.

I. Substantive Description

(a) Authority

The Supportive Housing Program is authorized by title IV, subtitle C, of the Stewart B. McKinney Homeless Assistance Act (McKinney Act), as amended, 42 USC 11381. Funds made available under this NOFA for the Supportive Housing program are subject to the program regulations at 24 CFR part 583.

The Shelter Plus Care program is authorized by title IV, subtitle F, of the McKinney Act, as amended, 42 USC 11403. Funds made available under this NOFA for the Shelter Plus Care program are subject to the program regulations at 24 CFR part 582.

The Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals (SRO) is authorized by section 441 of the McKinney Act, as amended, 42 USC 11401. Funds made available under this NOFA for the SRO program are subject to the program regulations at 24 CFR Part 882, subpart H, as amended by the Interim Rule published in the Federal Register on February 14, 1996 (61 FR 5850).

(b) Funding Availability

The Congress has not yet enacted a FY 1996 appropriation for HUD. When HUD has received its final Fiscal Year 1996 figure, the amount available under this NOFA will be published in the Federal Register. However, HUD is publishing this notice now in order to give potential applicants adequate time to prepare applications.

For planning purposes, applicants should be guided by two budget estimates. Based on Congressional action authorizing interim spending, commonly referred to as a Continuing Resolution, approximately $675 million would be available for this competition. Based on the Administration's Fiscal Year 1996 Budget request (published February 1995), approximately $925 million would be available for this competition. The amount that is ultimately awarded to applicants responding to this NOFA will depend upon the amount that is enacted for Fiscal Year 1996. Any unobligated funds from previous competitions or additional funds that may become available as a result of deobligations or recaptures from previous awards may also be used to fund applications submitted in response to this NOFA.

Separate amounts for each of the three programs will not be specified this year. Instead, the distribution of funds among the three programs will depend on locally determined priorities and overall demand. HUD reserves the right, however, to fund less than the full amount requested in any application to ensure the fair distribution of the funds available and to ensure the purposes of these homeless programs are met.

(c) Purpose

HUD has made addressing homelessness its number one priority. To that end, the Department founded the Continuum of Care approach and

requested and obtained a doubling of the homeless assistance budget from $572 million in 1993 to $1.1 billion in 1995. The Department has distributed the increased homeless assistance funds to support locally developed Continuum of Care systems designed to meet the multi-faceted needs of homeless persons in the nation's communities. These systems provide a much needed comprehensive approach to develop and implement housing and service delivery programs and help build partnerships and coordination with states, localities, not-for-profit organizations and the federal government to help homeless individuals and families move to permanent living and self-sufficiency to the extent possible. This is consistent with the Department's other major initiatives to encourage locally designed and coordinated approaches to solving community problems—the Consolidated Plan and Empowerment Zones/Enterprise Communities.

(1) *Continuum of Care.* The purpose of this NOFA is to fund projects and activities that will create locally developed Continuum of Care systems to assist homeless persons. A Continuum of Care system consists of four basic components:

(i) A system of outreach and assessment for determining the needs and conditions of an individual or family who is homeless;

(ii) Emergency shelters with appropriate supportive services to help ensure that homeless individuals and families receive adequate emergency shelter and referral to necessary service providers or housing finders;

(iii) Transitional housing with appropriate supportive services to help those homeless individuals and families who are not prepared to make the transition to permanent housing and independent living; and

(iv) Permanent housing, or permanent supportive housing, to help meet the long-term needs of homeless individuals and families.

While not all homeless individuals and families in a community will need to access all four, unless all four components are coordinated within a community, none will be successful. A strong homeless prevention strategy is also key to the success of the Continuum of Care.

Developing a Continuum of Care system requires a community process for coordinating all available resources. The community process should include nonprofit organizations (including veteran service organizations, other organizations representing persons with disabilities, and other groups serving homeless persons), State and local government agencies, other homeless providers, housing developers and service providers, private foundations, neighborhood groups, and homeless or formerly homeless persons. Together, these groups should address the specific needs of each homeless subpopulation: the jobless, veterans, homeless persons with serious mental illnesses, persons suffering from substance abuse, persons with HIV/AIDS, persons with multiple diagnoses, victims of domestic violence, runaway youth, and any others.

This NOFA is only one source of funding for the identified homeless needs. Applicants should also seek other sources of funds to meet the needs of homeless persons, including funds from the private sector (foundations and the business community), state and local agencies, and other federal agencies.

High scores under the Continuum of Care category will be assigned to applications that demonstrate the achievement of two basic goals:

- Have maximum participation by non-profit providers of housing and services; homeless and formerly homeless persons; state and local governments and agencies; the private sector; housing developers; foundations and other community organizations.
- Create, maintain and build upon a community-wide inventory of housing and services for homeless families and individuals; identify the full spectrum of needs of homeless families and individuals; and coordinate efforts to obtain resources, particularly resources sought through this NOFA, to fill gaps between the current inventory and existing needs.

(2) *Prioritizing.* In order to best respond to feedback from the 1995 competition and to ensure that appropriate decision-making is done at the community level, this year's application will instruct that all projects that are proposed for funding under this NOFA be listed in priority order from the highest priority to the lowest. This priority order will mean, for example, that if funds are only available to finance 8 of 10 proposed projects, then funding will be awarded to the first eight projects listed. HUD believes priority decisions are best made through a locally-driven process and are key to the ultimate goal of reducing homelessness in America. And, HUD expects nonprofit organizations to be given a fair role in establishing these priorities.

This priority list will be used in awarding up to 40 points per project under the ''Need'' scoring criteria. Higher priority projects will receive more points under Need than lower priority projects. If projects are not prioritized in the application, each project will receive the lowest score for Need.

(d) Use of NOFA Funds and Matching Funds To Fill Gaps

Funds available under this NOFA and matching funds may be used in the following ways to fill gaps within the context of developing a Continuum of Care system to help homeless persons achieve self-sufficiency:

(1) *Outreach/Assessment.* The Supportive Housing program may provide funding for outreach to homeless persons and assessment of their needs. The Shelter Plus Care program requires a supportive services match; outreach and assessment activities count toward that match.

(2) *Transitional housing and necessary social services.* The Supportive Housing program may be used to provide transitional housing with services, including both facility-based transitional housing and scattered-site transitional services. The Supportive Housing program may also be used to provide a safe haven, which is a form of supportive housing designed specifically to provide homeless persons with serious mental illness who have been living on the streets with a secure, non-threatening, non-institutional, supportive environment. These 24-hour residences in which overnight occupancy is limited to no more than 25 persons provide private or semi-private accommodations. They do not require participation in services and referrals as a condition of occupancy. Instead, it is expected that after a period of stabilization, residents will be more willing to participate in services and referrals, and will be ready to move to a more traditional form of permanent housing.

(3) *Permanent housing or permanent supportive housing.* The Supportive Housing program may be used to provide permanent supportive housing only for persons with disabilities, including both facility-based and scattered-site permanent supportive housing. The Shelter Plus Care program may be used to provide permanent supportive housing only for persons with disabilities (primarily persons who are seriously mentally ill, have chronic substance abuse problems, or have HIV/AIDS) in a variety of housing rental situations. This program requires a supportive services match; all supportive service activities count toward that match. The SRO program provides permanent housing for homeless individuals with incomes that

do not exceed the low-income standard of the Section 8 housing program. Appropriate supportive services are also an essential part of an SRO project. Providing permanent housing for homeless families is not available under the SRO program or the SRO component of the Shelter Plus Care (S+C) program because an SRO unit is designed for a single individual. Permanent housing for homeless families is only eligible under the other components of the Shelter Plus Care program and under the Supportive Housing program if an adult member has a disability.

(e) Homeless Persons With Multiple Diagnoses

Applicants are strongly urged to focus special efforts on homeless persons with multiple diagnoses, particularly mental illness, HIV/AIDS and addictions. Many providers and communities have found that this population is the most difficult part of the homeless population to address and, as a result, in some communities not all of these persons receive necessary housing and services.

(f) Program Summaries

Statutory authority for these programs is quite specific. HUD may not waive or alter statutory requirements. The chart below summarizes key aspects of the Supportive Housing Program, the Shelter Plus Care Program, and the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals. Program descriptions are contained in the applicable regulations cited in the chart.

Element	Supportive housing	Shelter plus care	Section 8 SRO
Authorizing legislation	Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended.	Subtitle F of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended.	Section 441 of the Stewart B. McKinney Homeless Assistance Act, as amended.
Implementing regulations	24 CFR part 583	24 CFR part 582	24 CFR part 882, subpart H, as amended February 14, 1996.
Eligible applicant(s)	• States • Units of general local government. • Public housing agencies (PHAs). • Tribes • Private nonprofit organizations . • CMHCs that are public nonprofit organizations.	• States • Units of general local government. • Tribes • PHAs	• PHAs. • Private nonprofit organizations.
Eligible components	• Transitional housing • Permanent housing for disabled persons only. • Supportive services not in conjunction with supportive housing. • Safe havens • Innovative supportive housing ..	• Tenant-based • Sponsor-based • Project-based • SRO-based	• SRO housing.
Eligible activities	• Acquisition • Rehabilitation • New construction • Leasing • Operating costs • Supportive services	• Rental assistance	• Rental assistance.
Eligible populations	• Homeless persons	• Homeless disabled individuals . • Homeless disabled individuals and their families.	• Homeless individuals. • Section 8 eligible current occupants.
Populations given special consideration.	• Homeless persons with disabilities. • Homeless families with children	Homeless persons who: • are seriously mentally ill • have chronic problems with alcohol and/or drugs. • have AIDS and related diseases.	N/A.
Initial term of assistance	3 years	5 years: TRA, SRA, and PRA if no rehab 10 years: SRO and PRA with rehab.	10 years.

II. Application Requirements

The application requires a description of the Continuum of Care system and proposed project(s). It also contains certifications that the applicant will comply with fair housing and civil rights requirements, program regulations, and other Federal requirements, and (where applicable) that the proposed activities are consistent with the HUD-approved Consolidated Plan of the applicable State or unit of general local government, including the Analysis of Impediments to Fair Housing and the Action Plan to address these impediments.

Care should be taken in the selection of projects and in the preparation of applications to ensure that environmental and historic preservation impediments do not cause an application to be denied or approval severely delayed. Questions about which environmental and historic preservation laws may apply should be addressed to the HUD Field Office.

III. Application Selection Process

(a) Review, Rating and Conditional Selection

The Department will use the same review, rating, and conditional selection process for all three programs (S+C, SRO, and SHP). To review and rate applications, the Department may establish panels including persons not currently employed by HUD to obtain

certain expertise and outside points of view, including views from other Federal agencies. Two types of reviews will be conducted. Paragraphs (1) and (2) below describe threshold reviews and paragraphs (3) and (4) describe criteria—Continuum of Care and Need—that will be used to assign points. Up to 100 points will be assigned using these criteria.

There are three options for submitting an application under this NOFA. *One*: A ''Consolidated Application'' is submitted when a jurisdiction (or a consortium of jurisdictions) submits a single application encompassing a Continuum of Care strategy and containing all the projects within that strategy for which funding is being requested. Individual projects, and operators, are contained within the one consolidated application. Grant funding may go to one entity which then administers all funded projects submitted in the application, or under this option, grant funding may go to all or any of the projects individually. Your application will specify the grantee for each project. *Two*: ''Associated Applications'' are submitted when applicants plan and organize a single Continuum of Care strategy which is adopted by project sponsors or operators who choose to submit separate applications for projects while including the identical Continuum of Care strategy. In this case, project funding would go to each successful applicant individually and each would be responsible to HUD for administering its separate grant. *Three*: A ''Solo Application'' is submitted when an applicant applies for a project exclusive of any Continuum of Care strategy.

Options one and two will be considered equally competitive. Applicants are advised that projects that are not a part of a Continuum of Care strategy will receive few, if any, points under the Continuum of Care rating criteria.

(1) *Applicant and sponsor eligibility and capacity.* Applicant and project sponsor capacity will be reviewed to ensure the following eligibility and capacity standards are met. If HUD determines these standards are not met, the project will be rejected from the competition.

- The applicant must be eligible to apply for the specific program. For the Sponsor-based component of the Shelter Plus Care program, the project sponsor must be a nonprofit organization;
- The applicant must demonstrate that there is sufficient knowledge and experience to carry out the project(s). With respect to each proposed project, this means that in addition to knowledge of and experience with homelessness in general, the organization carrying out the project, its employees, or its partners, must have the necessary experience and knowledge to carry out the specific activities proposed, such as housing development, housing management, and service delivery;
- If the applicant or project sponsor is a current or past recipient of assistance under a HUD McKinney Act program or the HUD Single Family Property Disposition Homeless Program, there must be no project or construction delay, HUD finding, or outstanding audit that HUD deems serious regarding the administration of HUD McKinney Act programs or the HUD Single Family Property Disposition Homeless Program; and
- The applicant and project sponsors must be in compliance with applicable civil rights laws and Executive Orders.

(2) *Project eligibility and quality.* Each project will be reviewed to determine if it meets the following eligibility and threshold quality standards. If HUD determines the following standards are not met by a specific project or activity, the project or activity will be rejected from the competition.

- The population to be served must meet the eligibility requirements of the specific program, as described in the program regulations;
- The activity(ies) for which assistance is requested must be eligible under the specific program, as described in the program regulations;
- The housing and services proposed must be appropriate to the needs of the persons to be served. HUD may find a project to be inappropriate if: the type and scale of the housing or services clearly does not fit the needs of the proposed participants (e.g., housing homeless families with children in the same space as homeless individuals, or separating members of the same family, without an acceptable rationale provided); participant safety is not addressed; participants will have little or no involvement in decision-making and project operations; the housing or services are clearly designed to principally meet emergency needs rather than helping participants achieve self-sufficiency; or transportation and community amenities are not available and accessible;
- The project must be cost-effective in HUD's opinion, including costs associated with construction, operations, and administration.
- Any services proposed for funding must be designed to help participants achieve permanent housing and self-sufficiency.
- For the Section 8 SRO program, at least 25 percent of the units to be assisted at any one site must be vacant at the time of application;
- For those projects proposed under the SHP innovative category: Whether or not a project is considered innovative will be determined on the basis that the particular approach proposed is new to the area, is a sensible model for others, and can be duplicated; and
- HUD will also find one or more of these standards not to have been met if there is insufficient information provided in the application on which to make a determination.

(3) *Continuum of Care.* Up to 60 points will be awarded as follows:

(i) Process and Strategy. Up to 30 point will be awarded based on the extent to which the application demonstrates:

- The existence of a quality and inclusive community process, including organizational structure(s), for developing and implementing a Continuum of Care strategy which includes nonprofit organizations (such as veterans service organizations, other organizations representing persons with disabilities, and other groups serving homeless persons), State and local governmental agencies, other homeless providers, housing developers and service providers, private foundations, local businesses and the banking community, neighborhood groups, and homeless or formerly homeless persons; and
- That a quality and comprehensive strategy has been developed which addresses the components of a Continuum of Care system (i.e., outreach, intake, and easement; emergency shelter; transitional housing; permanent and permanent supportive housing) and that strategy has been designed to serve all homeless subpopulations in the community (e.g., seriously mentally ill, persons with multiple diagnoses, veterans), including those persons living in emergency shelters, supportive housing for homeless persons, or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. For S+C, the strategy receives more points based on the extent to which S+C activities will serve homeless persons who are seriously mentally ill, have chronic alcohol and/or substance abuse problems, or have AIDS and related diseases.

(ii) Gaps and Priorities. Up to 20 point will be awarded based on the extent to which the application:

- Establishes the relative priority of homeless needs identified in the Continuum of Care strategy; and

• Proposes projects that are consistent with the priority analysis described in the Continuum of Care strategy.

(iii) Supplemental Resources. Up to 10 points will be awarded based on the extent to which the application demonstrates leveraging of funds requested under this NOFA with other resources, including private, other public, and mainstream services and housing programs.

(4) *Need.* Up to 40 points will be awarded for need. There is a three-step approach to determining the need scores to be awarded to projects:

(i) Determining relative need: To determine the homeless assistance need of a particular jurisdiction, HUD will use nationally available data on poverty, housing overcrowding, population, age of housing, and growth lag. Applying those criteria to a particular jurisdiction provides an estimate of the relative need index for that jurisdiction compared to other jurisdictions applying for assistance under this NOFA.

(ii) Applying relative need: That relative need index is then applied to the total amount of funding available under this NOFA to determine a jurisdiction's pro rata need. As HUD is still operating under a Continuing Resolution and, therefore, does not have a set budget for Fiscal Year 1996, there is uncertainty as to the total amount available for funding under this NOFA. As explained earlier in this NOFA, there are two likely scenarios: funding of either $675 million or $925 million. For the applicants' ease, HUD has estimated the amounts of the pro rata need for 300 communities across the country based on both scenarios and listed them in Appendix B. The estimated pro rata need of communities not listed is included within the State balances shown in Appendix B.

(iii) Awarding need points to projects: Once the pro rata need is established, it is applied against the priority project list in the application. Starting from the highest priority project, HUD proceeds down the list to include those projects whose total funding equals that jurisdiction's pro rata need. Those priority projects which fall within that pro rata need each receive the full 40 points for need. Thereafter, HUD proceeds further down the priority project list until two times the pro rata need is reached and each of those projects receive 20 points. Remaining projects each receive 10 points.

For example, the City of Birmingham might have a relative need index of .27 percent. That .27 percent relative need index applied to $625 million and $925 million renders a pro rata need of $1.8 million and $2.5 million, respectively. HUD will then apply the City's priority project list against the $1.8 million or $2.5 million amount, depending upon what amount is finally established in the HUD budget as funding under this NOFA. Assuming for this illustration that Congress adopts the Administration's requested budget of $925 million, the $2.5 million amount would be applied. Those projects whose total dollar amount in aggregate falls within $2.5 million are determined to have the highest pro rata need and are each awarded 40 points. HUD then continues down the project list until two times $2.5 million is reached (i.e., $5.0 million) and those projects each receive 20 points. Projects prioritized below $5.0 million each receive 10 points.

If an application does not prioritize projects, each project will receive 10 points.

In the case of competing applications from a single jurisdiction or service area, projects in the application that receives the highest score out of the possible 60 points for Continuum of Care are eligible for up to 40 points under Need. Projects in the competing applications with less effective Continuum of Care strategies are eligible for only 10 points under Need.

(5) *Ranking.* The score for Continuum of Care will be added to the Need score in order to obtain a total score for each project. The projects will then be ranked from highest to lowest according to the total combined score. A bonus of 2 points will be added in determining the final score of any project that will be located within a federal Empowerment Zone or Enterprise Community if priority placement will be given by the project to homeless persons living on the streets or in shelters within the EZ or EC, or whose last known address was within the EZ or EC.

(6) *Conditional selection.* Whether a project is conditionally selected, as described in section IV below, will depend on its overall ranking compared to others, except that HUD reserves the right to select lower rated projects if necessary to achieve geographic diversity; ensure that the overall amount of assistance received by a jurisdiction is not disproportionate to the jurisdiction's overall need for homeless assistance, as calculated from generally available data; or to achieve diversity of assistance provided in a community as determined through a comparison of projects from a given jurisdiction.

HUD also reserves the right to break ties among projects by determining which project will best achieve the purposes described in the preceding sentence, or to fund a project at less than the full amount requested if necessary to achieve one or more of those purposes.

In the event of a procedural error that, when corrected, would result in selection of an otherwise eligible project during the funding round under this NOFA, HUD may select that project when sufficient funds become available.

(7) *Additional selection considerations.* HUD will also apply the statutorily required limitations on funding described below in making conditional selections.

In accordance with section 429 of the McKinney Act, as amended, HUD will award Supportive Housing funds as follows: not less than 25 percent for projects that primarily serve homeless families with children; not less than 25 percent for projects that primarily serve homeless persons with disabilities; and not less than 10 percent for supportive services not provided in conjunction with supportive housing. After projects are rated and ranked, based on the criteria described above, HUD will determine if the conditionally selected projects achieve these minimum percentages. If not, HUD will skip higher-ranked projects in a category for which the minimum percent has been achieved in order to achieve the minimum percent for another category. If there are an insufficient number of conditionally selected projects in a category to achieve its minimum percent, the unused balance will be used for the next highest-ranked approvable Supportive Housing project.

In accordance with section 463(a) of the McKinney Act, as amended by the 1992 Act, at least 10 percent of Shelter Plus Care funds will be awarded for each of the four components of the program: Tenant-based Rental Assistance; Sponsor-based Rental Assistance; Project-based Rental Assistance; and Section 8 Moderate Rehabilitation of Single Room Occupancy Dwellings for Homeless Individuals (provided there are sufficient numbers of approvable projects to achieve these percentages). After projects are rated and ranked, based on the criteria described below, HUD will determine if the conditionally selected projects achieve these minimum percentages. If necessary, HUD will skip higher-ranked projects for a component for which the minimum percent has been achieved in order to achieve the minimum percent for another component. If there are an insufficient number of approvable projects in a component to achieve its minimum percent, the unused balance will be used for the next highest-ranked approvable Shelter Plus Care project.

In accordance with section 455(b) of the McKinney Act, no more than 10 percent of the assistance awarded for Shelter Plus Care in any fiscal year may be used for programs located within any one unit of general local government.

In accordance with section 441(c) of the McKinney Act, no city or urban county may have projects receiving a total of more than 10 percent of the assistance made available under this program.

(b) Clarification of Application Information

In accordance with the provisions of 24 CFR part 4, subpart B, HUD may contact an applicant to seek clarification of an item in the application, or to request additional or missing information, but the clarification or the request for additional or missing information shall not relate to items that would improve the substantive quality of the application pertinent to the funding decision.

(c) Technical Assistance

A video presentation about this competition is available for a nominal fee and can be obtained from Community Connections at 1-800-998-9999. This fee may be waived in the event of financial hardship. You may also reach HUD staff for answers to your questions by calling that toll-free telephone number. Prior to the application deadline, HUD staff will be available to provide general guidance and help identify organizations in your community that are involved in developing the Continuum of Care system. Following conditional selection, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of a grant agreement by HUD. However, between the application deadline and the announcement of conditional selections, HUD will accept no information that would improve the substantive quality of the application pertinent to the funding decision.

IV. Fund Award Process

HUD will notify conditionally selected applicants in writing. As necessary, HUD will subsequently request them to submit additional project information, which may include documentation to show the project is feasible; documentation of firm commitments for cash match; documentation showing site control; information necessary for HUD to perform an environmental review, where applicable; and such other documentation as specified by HUD in writing to the applicant, that confirms or clarifies information provided in the application. SRO and S+C/SRO applicants will be notified of the date of the two month deadline for submission of such information; other S+C applicants and all SHP applicants will be notified of the date of the one month deadline for submission of such information. If an applicant is unable to meet any conditions for fund award within the specified timeframe, HUD reserves the right not to award funds to the applicant, but instead to either: use them to select the next highest ranked application(s) from the original competition for which there are sufficient funds available; or add them to funds available for the next competition for the applicable program.

V. Employment Opportunities for Homeless Persons

A key goal of the Continuum of Care approach is to assist homeless persons achieve independent living whenever possible. Each of the three programs under this NOFA has as a goal increasing the skill level and/or income of program participants. Employment opportunities not only help achieve these goals but are also important in rebuilding self-esteem.

The McKinney Act recognizes the importance of employment opportunities in requiring that, to the maximum extent practicable, recipients involve homeless persons through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services. Under the Supportive Housing Program, employment assistance activities are eligible, and grant recipients can use these funds for such activities as job training, wages, and educational awards for homeless persons. While Shelter Plus Care Program and SRO Program funds may only be used for rental assistance, employment assistance activities paid from other sources count towards the match requirement of the Shelter Plus Care Program.

VI. Linking Homeless Assistance Programs and AmeriCorps

The Corporation for National Service, established in 1993 to engage Americans of all ages and backgrounds in community-based service, supports a range of national and community service programs. AmeriCorps, one of the national service programs supported by the Corporation, engages thousands of Americans on a full or part-time basis to help communities address their toughest challenges, while earning support for college, graduate school, or job training.

The partnership may include either (1) the AmeriCorps*State program, which is supported by the Corporation for National Service funds and operated through independent State Commissions, or (2) the AmeriCorps*VISTA program, which is both supported and operated by the Corporation for National Service through its State Offices.

Applicants for the Supportive Housing Program are encouraged to link their proposed projects with AmeriCorps. AmeriCorps Members can be an excellent source of committed, caring staff. For information about AmeriCorps SHP partnerships, call the Corporation for National Service at (202) 606–5000, extension 486.

For Supportive Housing, applicants may request funds for paying operating and supportive services costs. These costs may include payment for AmeriCorps Members, such as living allowances, health care costs, and reasonable overhead costs of the AmeriCorps program sponsor, but may not exceed the cost which would be paid by the applicant for the same services when procured from a contractor. An applicant does not fill out a special exhibit for AmeriCorps Members. Instead, the costs for the AmeriCorps Members are included in the operating and supportive services budgets, as appropriate, just as other staff costs are.

If Members are used in operating the Supportive Housing project, the costs are subject to the requirement that operating costs be shared. Examples of how Members may be used in operating a project include maintenance, security, and facility management. Supportive services are not subject to cost-sharing, so if Members are engaged in delivering supportive services, such as substance abuse counseling, case management, or recreational programs, no local share is required.

The Corporation's financial support for the partnership is subject to availability of funds.

VII. Program Limitations

(a) *SRO program*. Applicants need to be aware of the following limitations that apply to the Section 8 SRO program:

- Under section 8(e)(2) of the United States Housing Act of 1937, no single project may contain more than 100 units;
- Under 24 CFR 882.802, applicants that are private nonprofit organizations must subcontract with a Public Housing

Authority to administer the SRO assistance;

• Under section 8(e)(2) of the United States Housing Act of 1937 and 24 CFR 882.802, rehabilitation must involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade conditions to comply with the Housing Quality Standards.

• Under section 441(e) of the McKinney Act and 24 CFR 882.805(g)(1), HUD publishes the SRO per unit rehabilitation cost limit each year to take into account changes in construction costs. This cost limitation applies to rehabilitation that is compensated for in a Housing Assistance Payments Contract. For purposes of Fiscal Year 1996 funding, the cost limitation is raised from $16,100 to $16,500 per unit to take into account increases in construction costs during the past 12-month period.

(b) *Shelter Plus Care/Section 8 SRO Component.* With regard to the Shelter Plus Care/Section 8 SRO component, applicant States, units of general local government and Indian tribes must subcontract with a Public Housing Authority to administer the Shelter Plus Care assistance. Also with regard to this component, no single project may contain more than 100 units.

VIII. Other Matters

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and sub-recipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) and (l) of the HUD regulations, the policies and procedures set forth in this document are determined not to have the potential for having a significant impact on the quality of the human environment, and therefore are exempt from further environmental reviews under the National Environmental Policy Act of 1969. (This same determination was made at the time of development of the interim rule on the Supportive Housing Program, Shelter Plus Care, and Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals, that was published in the Federal Register on May 10, 1994 (59 FR 24252).

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the policies announced in this Notice would have a significant impact on the formation, maintenance, and general well-being of families, but since this impact would be beneficial, no further analysis under the Order is necessary.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The promotion of activities and policies to end homelessness is a recognized goal of general benefit without direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each applicant must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

Accountability in the Provision of HUD Assistance

HUD has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published at 57 FR 1942 additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the

selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact his or her Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Submissions

Applications that are mailed before June 12, 1996, but received within ten (10) days after that date will be deemed to have been received by that date if postmarked by the United States Postal Service by no later than June 8, 1996. Overnight delivery items received after June 12, 1996, will be deemed to have been received by that date upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than June 11, 1996.

Authority: 42 U.S.C. 11403 note; 42 U.S.C. 11389; 42 U.S.C. 1437a, 1437c, and 1437f; 42 U.S.C. 3535(d); 24 CFR parts 582, 583, and 882.

Dated: March 12, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

Appendix A—List of HUD Field Offices

Telephone numbers for Telecommunications Devices for the Deaf (TDD machines) are listed for CPD Directors in HUD Field Offices; all HUD numbers, including those noted *, may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY or (1–800–877–8339).

Alabama

William H. Dirl, Beacon Ridge Tower, 600 Beacon Pkwy. West, Suite 300, Birmingham, AL 35209–3144; (205) 290–7645; TDD (205) 290–7624.

Alaska

Colleen Bickford, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4399; (907) 271–3669; TDD (907) 271–4328.

Arizona

Martin H. Mitchell, 400 N. 5th St., Suite 1600, Arizona Center, Phoenix, AZ 85004; (602) 379–4754; TDD (602) 379–4461.

Arkansas

Billy M. Parsley, TCBY Tower, 425 West Capitol Ave., Suite 900, Little Rock, AR 72201–3488; (501) 324–6375; TDD (501) 324–5931.

California

Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 436–6544; TDD (415) 556–8357.

Colorado

Guadalupe M. Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Connecticut

Mary Ellen Morgan, 330 Main St., Hartford, CT 06106–1860; (860) 240–4665; TDD (860) 240–4522.

Delaware

Joyce Gaskins, Wanamaker Bldg., 100 Penn Square East, Philadelphia, PA 19107; (215) 656–0624; TDD (215) 597–5564.

District of Columbia (and MD and VA Suburbs)

James H. McDaniel, 820 First St., NE, Washington, DC 20002; (202) 275–0994; TDD (202) 275–0772.

Florida

James N. Nichol, 301 West Bay St., Suite 2200, Jacksonville, FL 32202–5121; (904) 232–3587; TDD (904) 232–1241.

Georgia

John Perry, Russell Fed. Bldg., Room 688, 75 Spring St., SW, Atlanta, GA 30303–3388; (404) 331–5139; TDD (404) 730–2654.

Hawaii (and Pacific)

Patty A. Nicholas, 7 Waterfront Plaza, Suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813–4918; (808) 522–8180x264; TDD (808) 522–8193.

Idaho

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Illinois

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Indiana

Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204–2526; (317) 226–5169; TDD * via 1–800–877–8339.

Iowa

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Kansas

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Kentucky

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Louisiana

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Maine

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Maryland

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Massachusetts

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Michigan

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Minnesota

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Mississippi

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Missouri

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Montana

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Nebraska

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Nevada

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New Hampshire

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New Jersey

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New Mexico

Katie Worsham, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483; TDD (817) 885–5447.

New York

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North Carolina

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North Dakota

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Ohio

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Oklahoma

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Oregon

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Pennsylvania

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Puerto Rico (and Caribbean)

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Rhode Island

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South Carolina

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South Dakota

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Tennessee

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Texas

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Utah

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Vermont

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Virginia

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Washington

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West Virginia

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Wisconsin

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Wyoming

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Appendix B—Pro Rata Need Estimates

Note: As described in the NOFA, each jurisdiction will be assigned a relative need index that will be applied to the total amount of funds available to determine its pro rata need. The pro rata need estimates below assume that all places listed will apply for funding. These estimates in no way guarantee a minimum or maximum funding level. Estimate A is based on Continuing Resolution funding level, with $675 million for this competition. Estimate B is based on the Administration's 1996 budget request, with $925 million for this competition.

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
ALABAMA		
BIRMINGHAM	1,806	2,475
MOBILE	742	1,017
MONTGOMERY	629	862
JEFFERSON COUNTY	661	906
ALABAMA BALANCE	3,651	5,003
Subtotal	7,489	10,263
ALASKA		
ANCHORAGE	500	685
ALASKA BALANCE	275	377
Subtotal	775	1,062
ARIZONA		
MESA	726	995
PHOENIX	3,282	4,498
TUCSON	1,645	2,254
MARICOPA COUNTY	814	1,115
PIMA COUNTY	637	873
ARIZONA BALANCE	1,626	2,228
Subtotal	8,730	11,963
ARKANSAS		
LITTLE ROCK	500	685
ARKANSAS BALANCE	2,629	3,603
Subtotal	3,129	4,288
CALIFORNIA		
ANAHEIM	1,016	1,392
BAKERSFIELD	605	829
BERKELEY	871	1,194
COMPTON	637	873
ELMONTE	750	1,028
FRESNO	1,806	2,475
GARDEN GROVE	573	785
GLENDALE	879	1,205
HUNTINGTON PARK	476	652

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
INGLEWOOD	605	829
LONG BEACH	2,072	2,839
LOS ANGELES	19,773	27,096
MODESTO	540	740
OAKLAND	2,193	3,005
ONTARIO	548	751
OXNARD	661	906
PASADENA	556	762
POMONA	710	973
RIVERSIDE	766	1,050
SACRAMENTO	1,435	1,966
SALINAS	540	740
SAN BERNARDINO	831	1,139
SAN DIEGO	4,000	5,481
SAN FRANCISCO	5,516	7,559
SAN JOSE	2,750	3,769
SANTA ANA	1,798	2,464
SOUTHGATE	581	796
STOCKTON	1,081	1,481
ALAMEDA COUNTY	468	641
CONTRA COSTA COUNTY	839	1,150
FRESNO COUNTY	1,266	1,735
KERN COUNTY	1,581	2,167
LOS ANGELES COUNTY	8,701	11,924
ORANGE COUNTY	1,169	1,602
RIVERSIDE COUNTY	2,290	3,138
SACRAMENTO COUNTY	1,693	2,320
SAN BERNARDINO COUNTY	2,064	2,828
SAN DIEGO COUNTY	1,419	1,945
SAN JOAQUIN COUNTY	831	1,139
SAN LUIS OBISPO COUNTY	581	796
SAN MATEO COUNTY	798	1,094
SANTA CLARA COUNTY	718	984
SONOMA COUNTY	540	740
VENTURA COUNTY	629	862
CALIFORNIA BALANCE	13,739	18,827
Subtotal	93,895	128,671
COLORADO		
COLORADO SPRINGS	669	917
DENVER	2,597	3,559
COLORADO BALANCE	2,333	3,197
Subtotal	5,599	7,673
CONNECTICUT		
BRIDGEPORT	935	1,281
HARTFORD	1,097	1,503
NEW BRITAIN	484	663
NEW HAVEN	1,081	1,481
WATERBURY	589	807
CONNECTICUT BALANCE	2,549	3,493
Subtotal	6,735	9,228
DELAWARE		
WILMINGTON	669	917
NEWCASTLE COUNTY	573	785
DELAWARE BALANCE	193	264
Subtotal	1,435	1,966
DISTRICT OF COLUMBIA		
WASHINGTON BALANCE	4,983	6,829
Subtotal	4,983	6,829
FLORIDA		
FT LAUDERDALE	589	807
HIALEAH	1,177	1,613
JACKSONVILLE-DUVAL	1,871	2,564
MIAMI	2,798	3,834
MIAMI BEACH	605	829
ORLANDO	532	729
ST PETERSBURG	661	906
TALLAHASSEE	468	641
TAMPA	1,064	1,458
BROWARD COUNTY	1,548	2,121
DADE COUNTY	4,943	6,774
ESCAMBIA COUNTY	605	829
HILLSBOROUGH COUNTY	1,371	1,879
ORANGE COUNTY	1,258	1,724
PALM BEACH COUNTY	1,597	2,188
PASCO COUNTY	669	917
PINELLAS COUNTY	782	1,072
POLK COUNTY	871	1,194
SEMINOLE COUNTY	564	773
VOLUSIA COUNTY	669	917
FLORIDA BALANCE	5,414	7,419
Subtotal	30,056	41,188
GEORGIA		
ATLANTA	2,766	3,790
AUGUSTA	484	663
COLUMBUS-MUSCOGEE	613	840
SAVANNAH	710	973
COBB COUNTY	613	840
DEKALB COUNTY	1,137	1,558
FULTON COUNTY	613	840
GWINNETT COUNTY	540	740
GEORGIA BALANCE	4,571	6,264
Subtotal	12,047	16,508
HAWAII		
HONOLULU	2,887	3,956
HAWAII BALANCE	425	582
Subtotal	3,312	4,538
IDAHO		
IDAHO BALANCE	1,006	1,379
Subtotal	1,006	1,379
ILLINOIS		
CHICAGO	24,272	33,262
EAST ST LOUIS	556	762
EVANSTON	508	696
OAK PARK	484	663
PEORIA	508	696
ROCKFORD	564	773
COOK COUNTY	2,798	3,834
DUPAGE COUNTY	871	1,194
LAKE COUNTY	597	818
MADISON COUNTY	806	1,105
ST CLAIR COUNTY	484	663
ILLINOIS BALANCE	5,842	8,006
Subtotal	38,290	52,472
INDIANA		
EVANSVILLE	782	1,072
FORT WAYNE	758	1,039
GARY	1,032	1,414
HAMMOND	621	851
INDIANAPOLIS	2,427	3,326
SOUTH BEND	774	1,061
TERRE HAUTE	508	696
INDIANA BALANCE	4,332	5,936
Subtotal	11,234	15,395
IOWA		
DES MOINES	1,105	1,514
SIOUX CITY	524	718
IOWA BALANCE	3,489	4,781
Subtotal	5,118	7,013
KANSAS		
KANSAS CITY	677	928
TOPEKA	532	729
WICHITA	823	1,128
KANSAS BALANCE	2,124	2,911
Subtotal	4,156	5,696
KENTUCKY		
COVINGTON	476	652
LEXINGTON-FAYETTE	589	807
LOUISVILLE	2,621	3,592
JEFFERSON COUNTY	702	962
KENTUCKY BALANCE	3,177	4,354
Subtotal	7,565	10,367
LOUISIANA		
BATON ROUGE	1,282	1,757
NEW ORLEANS	4,322	5,923
SHREVEPORT	847	1,161
JEFFERSON PARISH	1,113	1,525
LOUISIANA BALANCE	4,152	5,690
Subtotal	11,716	16,056
MAINE		
PORTLAND	556	762
MAINE BALANCE	1,736	2,379
Subtotal	2,292	3,141
MARYLAND		
BALTIMORE	6,274	8,598

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
ANNE ARUNDEL COUNTY	532	729
BALTIMORE COUNTY	1,072	1,469
MONTGOMERY COUNTY	1,266	1,735
PRINCE GEORGES COUNTY	1,484	2,034
MARYLAND BALANCE	1,231	1,687
Subtotal	11,859	16,252
MASSACHUSETTS		
BOSTON	5,556	7,614
CAMBRIDGE	855	1,172
FALL RIVER	774	1,061
LAWRENCE	524	718
LOWELL	613	840
LYNN	734	1,006
NEW BEDFORD	790	1,083
NEWTON	573	785
QUINCY	540	740
SOMERVILLE	814	1,115
SPRINGFIELD	1,097	1,503
WORCESTER	1,282	1,757
MASSACHUSETTS BALANCE	5,643	7,733
Subtotal	19,795	27,127
MICHIGAN		
DEARBORN	573	785
DETROIT	11,556	15,836
FLINT	1,226	1,680
GRAND RAPIDS	1,008	1,381
KALAMAZOO	476	652
LANSING	516	707
SAGINAW	710	973
GENESEE COUNTY	605	829
OAKLAND COUNTY	871	1,194
WAYNE COUNTY	798	1,094
MICHIGAN BALANCE	6,844	9,379
Subtotal	25,183	34,510
MINNESOTA		
MINNEAPOLIS	3,750	5,139
ST PAUL	2,161	2,961
HENNEPIN COUNTY	766	1,050
ST LOUIS COUNTY	1,435	1,966
MINNESOTA BALANCE	2,898	3,971
Subtotal	11,010	15,087
MISSISSIPPI		
JACKSON	798	1,094
MISSISSIPPI BALANCE	3,578	4,903
Subtotal	4,376	5,997
MISSOURI		
KANSAS CITY	2,556	3,503
ST JOSEPH	508	696
ST LOUIS	6,120	8,387
ST LOUIS COUNTY	1,427	1,956

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
MISSOURI BALANCE	3,067	4,203
Subtotal	13,678	18,745
MONTANA		
MONTANA BALANCE	906	1,242
Subtotal	906	1,242
NEBRASKA		
LINCOLN	476	652
OMAHA	1,500	2,056
NEBRASKA BALANCE	1,314	1,801
Subtotal	3,290	4,509
NEVADA		
LAS VEGAS	831	1,139
CLARK COUNTY	968	1,327
NEVADA BALANCE	627	859
Subtotal	2,426	3,325
NEW HAMPSHIRE		
MANCHESTER	484	663
NEW HAMPSHIRE BALANCE	1,099	1,506
Subtotal	1,583	2,169
NEW JERSEY		
BAYONNE	492	674
CAMDEN	823	1,128
ELIZABETH	629	862
JERSEY CITY	1,927	2,641
NEWARK	2,621	3,592
PATERSON	774	1,061
TRENTON	839	1,150
BERGEN COUNTY	2,742	3,758
BURLINGTON COUNTY	476	652
CAMDEN COUNTY	621	851
ESSEX COUNTY	1,548	2,121
HUDSON COUNTY	1,298	1,779
MONMOUTH COUNTY	806	1,105
MORRIS COUNTY	564	773
OCEAN COUNTY	508	696
UNION COUNTY	1,371	1,879
NEW JERSEY BALANCE	3,435	4,707
Subtotal	21,474	29,429
NEW MEXICO ALBUQUERQUE	1,169	1,602
NEW MEXICO BALANCE	1,514	2,075
Subtotal	2,683	3,677
NEW YORK		
ALBANY	1,016	1,392
BINGHAMTON	637	873
BUFFALO	4,693	6,431
ISLIP TOWN	516	707
MOUNT VERNON	492	674
NEW YORK	48,973	67,110

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
NIAGARA FALLS	734	1,006
ROCHESTER	2,540	3,481
SCHENECTADY	693	950
SYRACUSE	1,653	2,265
TONAWANDA TOWN	476	652
TROY	540	740
UTICA	847	1,161
YONKERS	984	1,348
ERIE COUNTY	685	939
MONROE COUNTY	484	663
NASSAU COUNTY	3,645	4,995
ONONDAGA COUNTY	484	663
ROCKLAND COUNTY	492	674
SUFFOLK COUNTY	927	1,270
WESTCHESTER COUNTY	1,411	1,934
NEW YORK BALANCE	7,262	9,952
Subtotal	80,184	109,880
NORTH CAROLINA		
CHARLOTTE	976	1,337
RALEIGH	500	685
CUMBERLAND COUNTY	500	685
NORTH CAROLINA BALANCE	5,540	7,592
Subtotal	7,516	10,299
NORTH DAKOTA		
NORTH DAKOTA BALANCE	717	983
Subtotal	717	983
OHIO		
AKRON	1,855	2,542
CANTON	798	1,094
CINCINNATI	3,629	4,973
CLEVELAND	6,862	9,403
COLUMBUS	1,895	2,597
DAYTON	1,806	2,475
LAKEWOOD	548	751
SPRINGFIELD	540	740
TOLEDO	2,024	2,774
YOUNGSTOWN	1,226	1,680
CUYAHOGA COUNTY	718	984
FRANKLIN COUNTY	484	663
HAMILTON COUNTY	758	1,039
MONTGOMERY COUNTY	556	762
OHIO BALANCE	7,306	10,011
Subtotal	31,005	42,488
OKLAHOMA		
OKLAHOMA CITY	1,387	1,901
TULSA	1,048	1,436
OKLAHOMA BALANCE	2,254	3,089
Subtotal	4,689	6,426
OREGON		
PORTLAND	2,548	3,492

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
CLACKAMAS COUNTY	524	718
WASHINGTON COUNTY	500	685
OREGON BALANCE	1,932	2,648
Subtotal	5,504	7,543
PENNSYLVANIA		
ALLENTOWN	677	928
ALTOONA	556	762
ERIE	968	1,327
HARRISBURG	621	851
JOHNSTOWN	468	641
LANCASTER	476	652
PHILADELPHIA	14,894	20,410
PITTSBURGH	4,717	6,464
READING	855	1,172
SCRANTON	911	1,248
UPPER DARBY	524	718
WILKES-BARRE	516	707
ALLEGHENY COUNTY	4,016	5,503
BEAVER COUNTY	1,024	1,403
BERKS COUNTY	685	939
BUCKS COUNTY	581	796
CHESTER COUNTY	702	962
DELAWARE COUNTY	960	1,316
LANCASTER COUNTY	831	1,139
LUZERNE COUNTY	1,202	1,647
MONTGOMERY COUNTY	895	1,226
WASHINGTON COUNTY	1,169	1,602
WESTMORELAND COUNTY	1,048	1,436
YORK COUNTY	629	862
PENNSYLVANIA BALANCE	7,040	9,647
Subtotal	46,965	64,358
RHODE ISLAND		
PAWTUCKET	540	740
PROVIDENCE	1,629	2,232
WOONSOCKET	339	465
RHODE ISLAND BALANCE	750	1,028
Subtotal	3,258	4,465
SOUTH CAROLINA		
GREENVILLE COUNTY	556	762
SOUTH CAROLINA BALANCE	3,681	5,044
Subtotal	4,237	5,806
SOUTH DAKOTA		
SOUTH DAKOTA BALANCE	863	1,183
Subtotal	863	1,183

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
TENNESSEE		
CHATTANOOGA	508	696
KNOXVILLE	548	751
MEMPHIS	2,468	3,382
NASHVILLE-DAVIDSON	1,290	1,768
TENNESSEE BALANCE	3,196	4,380
Subtotal	8,010	10,977
TEXAS		
AMARILLO	524	718
ARLINGTON	621	851
AUSTIN	1,750	2,398
BEAUMONT	484	663
BROWNSVILLE	839	1,150
CORPUS CHRISTI	1,081	1,481
DALLAS	4,209	5,768
EL PASO	2,693	3,690
FORT WORTH	1,677	2,298
HOUSTON	7,677	10,520
IRVING	484	663
LAREDO	927	1,270
LUBBOCK	702	962
MCALLEN	556	762
SAN ANTONIO	4,322	5,923
WACO	484	663
BEXAR COUNTY	516	707
FORT BEND COUNTY	476	652
HARRIS COUNTY	2,459	3,370
HIDALGO COUNTY	1,895	2,597
TARRANT COUNTY	839	1,150
TEXAS BALANCE	11,475	15,724
Subtotal	46,690	63,980
UTAH		
SALT LAKE CITY	1,105	1,514
SALT LAKE COUNTY	879	1,205
UTAH BALANCE	1,241	1,701
Subtotal	3,225	4,420
VERMONT		
VERMONT BALANCE	846	1,159
Subtotal	846	1,159
VIRGINIA		
NEWPORT NEWS	476	652
NORFOLK	1,347	1,846
PORTSMOUTH	468	641
RICHMOND	1,282	1,757
VIRGINIA BEACH	669	917
ARLINGTON COUNTY	516	707
FAIRFAX COUNTY	1,331	1,824
VIRGINIA BALANCE	3,452	4,731
Subtotal	9,541	13,075
WASHINGTON		
SEATTLE	3,322	4,552

[In thousands of dollars]

Jurisdiction	Est. A	Est. B
SPOKANE	976	1,337
TACOMA	677	928
KING COUNTY	1,427	1,956
PIERCE COUNTY	935	1,281
SNOHOMISH COUNTY	726	995
WASHINGTON BALANCE	2,483	3,403
Subtotal	10,546	14,452
WEST VIRGINIA		
CHARLESTON	540	740
HUNTINGTON	605	829
WEST VIRGINIA BALANCE	2,187	2,997
Subtotal	3,332	4,566
WISCONSIN		
MADISON	556	762
MILWAUKEE	4,758	6,520
RACINE	540	740
WISCONSIN BALANCE	4,554	6,241
Subtotal	10,408	14,263
WYOMING		
WYOMING BALANCE	398	545
Subtotal	398	545
PUERTO RICO		
AGUADILLA MUNICIPIO	548	751
ARECIBO MUNICIPIO	855	1,172
BAYAMON MUNICIPIO	1,443	1,977
CAGUAS MUNICIPIO	1,048	1,436
CAROLINA MUNICIPIO	1,161	1,591
GUAYNABO MUNICIPIO	589	807
HUMACAO MUNICIPIO	476	652
MAYAGUEZ MUNICIPIO	863	1,183
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VEGA BAJA MUNICIPIO	516	707
PUERTO RICO BALANCE	6,154	8,433
Subtotal	19,241	26,367
Total	675,000	925,000

[FR Doc. 96–6396 Filed 3–14–96; 8:45 am]

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This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 927/P.L. 104–114

Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Mar. 12, 1996; 110 Stat. 785)

H.R. 3021/P.L. 104–115

To guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States. (Mar. 12, 1996; 110 Stat. 825)

Last List March 11, 1996